

STATE OF CALIFORNIA

MEETING OF THE
CALIFORNIA INSPECTION & MAINTENANCE REVIEW COMMITTEE

Tuesday, July 27, 2004
Emeryville City Hall Council Chambers
1333 Park Avenue
Emeryville, California

MEMBERS PRESENT:

VICTOR WEISSER, CHAIR
TYRONE BUCKLEY
DENNIS DeCOTA
JOHN HISSERICH
BRUCE HOTCHKISS
JUDITH LAMARE
JEFFREY WILLIAMS

ALSO PRESENT:

ROCKY CARLISLE, Executive Officer
LYNN FORSYTH, Administrative Staff

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P R O C E E D I N G S

CHAIR WEISSER: This is the July 27th, 2004, meeting of the Inspection and Maintenance Review Committee. We want to welcome you here to these impressive offices in the City of Emeryville once again. It's interesting here we have a nice outpouring of public participation in one of our smaller venues, but it's a good thing and I'm sure we'll all have a good time today chatting with one another, because that's really what these meetings are all about. It gives us an opportunity as a committee to both comply with the law and have public meetings and also to chat among ourselves and to chat with you to hear from you what issues, concerns and suggestions you have for our committee as we try to meet our responsibility, which is not the running of the Smog Check Program but the creation of suggestions to make the program as efficient as we can in terms of identifying prospective ways to reduce emissions from the light duty vehicles that are subject to the Smog Check Program.

Today we are going to be spending a lot of time reviewing and chatting among ourselves and you about the work of the various subcommittees that we've established to attempt to meet our statutory mandate to submit a report following the submission of the draft ARB/BAR report, but perhaps before I move into

the heart of the agenda there are some things I'd like to put out on the table for you to try to observe while we meet.

The first is I suggest if you have a cell phone that you set it on buzz rather than ring so that people who are speaking don't lose their train of conversation and so that you can get a minor massage while you get your call.

Secondly, when and if you do choose to speak at the microphone up there, we're going to ask you to identify yourself with your name so that the transcriber has a chance to figure out who you are when she or he does the work that's necessary.

You will see a little gray box on top of the speaker's podium. That box has three lights, one green, one yellow, one red, and we allot three minutes per person for speaking. When we have given everybody a chance to speak, and if we have time, we'll go back and see if people have additional comments that they'd like to share with us. We'll try to allow public comment at opportune times during the day.

Are there any questions about any of those things? Good.

We will take a, God willing, a break in the morning and a lunch break and the break in the mid-afternoon. I've been assured that we will complete our agenda on time or early today.

I think the next thing I'd like to do is to ask other members of the committee to introduce themselves, and we'll start from our far right with Mr. Hotchkiss, please.

MEMBER HOTCHKISS: Bruce Hotchkiss.

CHAIR WEISSER: And your position on the committee is which one? Who were you appointed by?

MEMBER HOTCHKISS: I was appointed by the former speaker.

CHAIR WEISSER: Very good.

MEMBER LAMARE: Jude Lamare. Is this microphone on?

CHAIR WEISSER: Yes, it is.

MEMBER LAMARE: So we don't have any control over whether the microphone is off; it's always on?

CHAIR WEISSER: That's correct, so I ask you to refrain from your singing.

MEMBER LAMARE: All right, this time I'll make an exception. I was appointed by Senate Rules to represent environmental concerns on the committee.

MEMBER WILLIAMS: Jeffrey Williams. I was appointed by the previous Governor as a public member.

MEMBER DECOTA: Dennis DeCota. I was appointed by Senate Rules and I represent the industry.

MEMBER BUCKLEY: My name is Tyrone Buckley. I work for the Planning and Conservation League and I was appointed by Speaker Nunez.

CHAIR WEISSER: I want to welcome Tyrone, this is his first meeting on the committee. He and I have had minor contacts over the last couple of years. Welcome on board, Tyrone. It might be instructive and informative if you could share with us a bit of your background and experience in this area.

MEMBER BUCKLEY: Sure. I work for the Planning and Conservation League. We're a statewide environmental non-profit and I was hired to work on environmental issues that impact low income people and (inaudible). My primary interest in participating here is to look at issues that affect those communities and see what this committee can do to be of service and help those communities out, particularly in the consumer assistance program area and (inaudible) areas.

CHAIR WEISSER: Excellent. (Inaudible)

MEMBER HISSERICH: John Hisserich from Southern California. I'm a public member and work for the University of Southern California.

CHAIR WEISSER: Very good. You'll see there's a bare quorum here today. We have thirteen opportunities for appointments on this committee, seven of us are here today. We have three vacancies

[interference] Department of Consumer Affairs offering our assistance in attempting to fill the three vacancies that now are on the committee, all of which are Governor's appointments, and I'm certain that we'll see fast action on filling those appointments as soon as they've got the budget resolved. I'm confident we'll get another series of great appointments.

— oOo —

Well, I think our first order of business today will be the approval of the minutes from the June meeting. Am I correct in assuming that each and every member of this committee has had an opportunity to review both the summary minutes and the transcript from June's meeting?

That was a very exciting meeting and interesting meeting. It was a meeting that was webcast for the first time in IMRC history, and I might add I've received four or five phone calls from people who really appreciated it being on the webcast. There were some technical issues associated with it. Some people were unable to make an Internet connection to allow a number of emails, there were some phone glitches along the way, but by and large it seems to me to be something that we as a committee might want to explore doing more often if the ARB space is open.

In any event, assuming that everyone has had a chance to review the transcript and the summary meeting, I think the floor is open for a motion to approve the summary minutes. Is there a motion?

MEMBER DECOTA: So moved.

MEMBER HISSERICH: Second.

CHAIR WEISSER: Mr. DeCota moves, Mr. Hisserich seconds. Any discussion? Hearing none, all in favor of adopting the summary minutes please signify by saying aye.

IN UNISON: Aye.

CHAIR WEISSER: Are any opposed? Hearing none, they are adopted.

— oOo —

Rocky, our next order of business would be to move to the executive officer's report, but we have a guest of honor that I think we should introduce prior to your giving us your report, and that guest is Mr. Richard Ross, who is the new chief of the Bureau of Automotive Repair.

Rich, first of all, on behalf of the committee, our congratulations. This is a job that will not help you grow your hair back. You are going to be faced with many demands from many stakeholders, all of whom are speaking from the heart and from their experience in the program, and you're going to have your hands full. This committee wants to offer you

any and all assistance that it can in a constructive way of helping you do your job.

Perhaps there are some words you might want to share with us and the audience.

MR. ROSS: Chair Weisser and fellow board members, thank you for your welcome; I appreciate that very much. I am a very recent appointee by the Governor, so he does make appointments, I can tell you that. Have faith.

I look forward to working with the board. I look forward to learning more about the responsibilities that are associated with the IMRC and how BAR can help facilitate and support the forum that the review committee provides for the public's awareness of what is going on relative to this aspect of pollution reduction, and I look forward to seeing what types of resources that we can mutually bring together and develop positive input and hopefully beneficial results.

I'm learning an awful lot about many topics that frankly I did not anticipate in my lifetime I would have a unique interest in, but I will tell you and I'll tell the people in this audience who represent many of those interests, not only as citizens but also as business people and consumers, that it is a very significant topic for all of California. The quality of life here is

[interference] a great deal of what California is all about, and I think oftentimes we need to keep that vision in mind, kind of raising our eyes up just a little bit and away from those things that drive us each and every day in our own twenty-four hour life cycle, and I hope to work with you all in retaining and achieving that kind of goal.

So once again, thank you for the opportunity. I will be a good listener today. And with that, again thank you.

CHAIR WEISSER: Well, thank you.

— oOo —

And now folks, I think what I'll do is ask Rocky Carlisle to give us his activities since our last meeting. Rocky.

MR. CARLISLE: Thank you, Mr. Chairman. A couple things. First of all, in the book you have before you under tab four there is a number of documents I'd like to just go through real briefly and make sure everybody's aware of them.

The first one of course is the resignation of Mark Martin to the Governor.

I also put in there some dialog from the International Automotive Technician's Network. I think a couple of you have access to that, probably Bruce. But it's always a topic of debate, shall we say, and this one was rather interesting talking about

the Air Resources Board request, and that's just for your reading pleasure, if you will.

Another is a copy of a letter to Larry Armstrong from the Bureau of Automotive Repair that was a response to his request for information about tests conducted at test-only stations.

More recently we've received a memorandum from the Air Resources Board that was in response to a request from, I believe it was Mr. DeCota, on the benefits associated with adding an idle test to the ASM testing protocol, and in this document, it's about a four-page document, the highlights are that it would benefit the program by about 3.1 tons per day at a cost of a little less than \$4,000 per ton. But they are also undertaking a study this summer to support a SIP document and they feel that it may be more beneficial just to reduce the ASM cut points and that may accomplish the same thing far easier than what a new software upgrade would be for the BAR 97 machine.

The next three documents are simply letters that are requests to the committee I've sent to various agencies like the Franchise Tax Board requesting information about delinquent vehicle registrations. No response there yet; I'm going to follow up on it.

We've made a request for information about the IRP registered vehicles from the Department of

Motor Vehicles. Unfortunately, none of the 500,000 vehicles are in the electronic database, they're all on paper. And they did offer to allow us access to approximately 100 boxes, which I declined. We may be able to get electronic information from IRP and I'm following up on that.

Last letter is to the CHP, Mr. Steve Kohler, we're requesting information about citations issued under California Vehicle Code for smoking vehicles, tampered emission systems, unregistered vehicles and finally missing gascap or gascap replaced with combustible material such as a rag. I have not received a response from that letter and I'll be following up.

The next one is the letter that we drafted to the Governor with regard to his budget proposal. That was hand delivered on the 25th of June last month. No response from that.

One thing -

CHAIR WEISSER: Rocky, I would not characterize that letter as not having much response. In fact, when you're done I'll want to (inaudible).

MR. CARLISLE: Okay. One other item. With regard to a concern by Mr. Armstrong at the May meeting, he was concerned about a possible conflict of interest on the part of Ms. Jude Lamare, and I submitted that to legal for a response and we got a

response from Don Chang, Senior Legal Counsel for DCA, and while I won't read the whole thing into the record, suffice it to say that he did in fact indicate that from what he can see there is no conflict of interest with Jude Lamare serving on this committee.

CHAIR WEISSER: Conflicts of interest presently relate to economic interests, correct?

MR. CARLISLE: Absolutely.

CHAIR WEISSER: Thank you.

MR. CARLISLE: And that's what he points out in this document.

Also, with the departure of Norm Covell and the appointment of Tyrone Buckley we've had to modify the subcommittee assignments a little bit.

CHAIR WEISSER: [interference] try to get a sense of progress, if any, of whether or not we have the right people working on them and what issues they're going to explore or are exploring and what questions the members of the committee present and the audience might have that they might suggest that the subcommittees work on.

MR. CARLISLE: Okay. Couple other things. One is we've completed an RFP for consumer information survey. We have completed the RFP process and it's in the award process but won't be awarded for probably another two weeks, but we have selected a contractor, which we can't divulge that information until the

award is finalized through the Department of Consumer Affairs. We hope to have that completed by the end of September, not just the award but also the survey itself.

At the request of Dennis DeCota and the committee I also drafted a letter for the subcommittee's review requesting a pilot study be conducted by the Bureau of Automotive Repair at the referee facility, and that's under tab five in your book.

And another thing that the committee requested was a meeting with DCA legal to review the agenda possible changes as far as being able to discuss items not necessarily on the agenda. The result of that was the agenda you see before you today which lists essentially everything from soup to nuts, so no stone was left unturned on that agenda.

Another issue —

CHAIR WEISSER: Excuse me, Rocky. Does that mean that the committee is allowed to talk about each and every item that is on the agenda?

MR. CARLISLE: Yes, sir.

CHAIR WEISSER: Does that mean that the committee may make decisions on issues that are raised through that discussion?

MR. CARLISLE: Yes, sir.

CHAIR WEISSER: Thank you.

MR. CARLISLE: Another issue came up with regard to requested time lines, and in a previous document we had we set a few milestones, if you will, for the IMRC report. As an example, September 28th is set as the deadline for the draft review for submittal to other agencies, the industry and the public. October 26th was set for the review of comments from other agencies, the industry and the public at large.

CHAIR WEISSER: Rocky, where is this document that you're referring to now?

MR. CARLISLE: That was, I believe from the April meeting.

CHAIR WEISSER: So this is nothing contained in the tabs here.

MR. CARLISLE: No.

CHAIR WEISSER: Okay. So would you go over that again a little bit slower?

MR. CARLISLE: You bet. September 28th, draft review for submittal to agencies, the industry, the automotive repair industry. The agencies include the BAR and ARB, the California Highway Patrol and also the Department of Motor Vehicles. October 26th we had set as a review for comments from the agencies. November 4th.

CHAIR WEISSER: Rocky, why are we giving the agencies so much time when we've received so little time? You don't need to answer.

MR. CARLISLE: We set the November meeting for the final review and comments for the report. And finally, the December 28th meeting to approve and submit the report to the Administration and the Legislature.

And finally, when I was hired by the committee last November I did mention that I had a contractual obligation with Sri Lanka and the United States Agency for International Development, and that has come to fruition which they're requesting that I be in Sri Lanka by the 15th of next month, August, and I'll be gone for approximately two and a half weeks, so that means I will miss the August meeting but (inaudible).

CHAIR WEISSER: Are there any questions from the committee on any of the items that Rocky raised? Yes, Mr. DeCota.

MEMBER DECOTA: In my eleven-plus years on this committee I've worked with a couple of executive officers. I've got to say that Mr. Carlisle is doing an excellent job. Of course, he's well supported by staff, which helps him stay focused. But the work and the response time and the completeness of the work that you've done, at least when I've asked you, has been exemplary and I appreciate it. Thank you.

MR. CARLISLE: Thank you.

CHAIR WEISSER: I want to compliment Lynn and Rocky for Lynn got the transcript transcribed in a record amount of time, which was crucial from my standpoint because, as you remember from our last meeting, you charged me with the task of drafting the letter to the Governor, and based upon further discussions with attorneys I realized that I had better draft that letter on my own without much conversation with the IMRC members. I wouldn't have been able to do that without Lynn and Rocky's help.

Which leads me to discussing the fact that the letter has actually, I think, had its (inaudible) result. Following the letter, I received several calls from both agency folks and folks in the Administration really, I would say, embracing the fundamental concept behind the letter, which is, A, don't think you've solved the problem for the Carl Moyer Program by taking the fifth and sixth years cars out of Smog Check and utilizing the funds that would be allowed for people to pay to not have their cars smog checked; that in fact what's needed is a broader program with more money for Carl Moyer, a broader program with real money for the repair and the scrappage of vehicles.

And we've received from a number of quarters, which I've just mentioned, an awful lot of encouragement to continue working with various

stakeholders to try to develop a consensus around a package that would result in a so-called large emissions reduction program.

Our letter, and I think everyone has had an opportunity to get copies, does not dispute the fact that it appears that you can get more emission reductions out of putting that money into the Carl Moyer Program than you might from the fifth and sixth year inspections. What it does say is a number of things associated with the impact on the industry and the relationship between the private sector and its government, and the need for us to approach this issue from a far broader, far more aggressive stance.

And I think that's been acknowledged, at least by the folks I've spoken with in the Administration. They are becoming far more active in their participation in discussions on how to scope a new broader program along the lines of what we put forward in our letter.

Whether or not we're able to pull this together in the remaining few weeks of this Legislative session, I think is very problematic. I don't know. I think it's a long shot, but I can tell you that a lot of energy is being spent on trying to fashion such a program. And I can assure that if for whatever reasons we're unable to do it this year, it is my intention and the intention of the organization

that I represent and I believe members on this committee to push forward in the next Legislative session if we're unsuccessful this year.

Rocky, you went through these letters that we've received pretty quickly, and some of them will relate to the work being done by the subcommittees and I'm wondering whether you think it would be best for us to look at these letters in more depth now one by one, particularly the idle test to the (inaudible). Those letters that we can get a better understanding of the context, or should we wait until we go through —

MR. CARLISLE: This would probably be as good a time as any.

CHAIR WEISSER: Okay. Before we move on I see a hand in the audience. Mr. Peters.

MR. PETERS: Yes, thank you Mr. Chairman and committee. I'm still, as I was at the last hearing, confused and wondering if you can kind of help me in (inaudible) the letter and sending that letter out what kinds of laws and rules and regulations the committee was bound to, and it appeared to me as though the committee went ahead and discussed issues not on the agenda, from my perspective, and the letter did go out and the letter basically had all the committee members on there and it appeared as though,

as I saw it, as though that was the committee's opinion.

And even the issue of whether or not the committee can lobby the Legislature, and it was kind of said, well, this is not lobbying, this is just informing them of the opinion of the committee. But it appeared to me as though there was a breach in ethics of the committee, and when we have the repair industry out where an employee can fraud the owner of a business and that owner be required to spend huge amounts of money to try to stay in business and has been out of business for a year and a half because of something as minor as that when his personal behavior wasn't called into question at all, it just seems very concerning to me that the committee would disregard what I perceive to be legal advice and just go ahead, that's very concerning to me.

So I at least wanted to state my concerns and following the law here I think is very important, and I'm certainly not an attorney and it's certainly not my position to state legal, but just my opinion of what I perceived happening in the meeting. So I would love to have any feedback on that as to what your feelings are and what kind of feedback you got back from that particular activity. Thank you.

CHAIR WEISSER: Thank you, Mr. Peters. Let me try to be succinct. In discussions with both the

attorneys from the Department of Consumer Affairs and other attorneys in state government familiar with both the Brown Act and other requirements associated with meetings of boards, commissions and advisory bodies and the like, I have been assured that the action of the committee to charge me with the development and drafting of the letters reflect the committee's opinions on the issues clearly within the bounds and rules of this committee and falls within the requirements of the Open Meetings Act in terms of the notice of subjects to be discussed.

And in particular, if you read our letter you will note vis-a-vis the reference to the statutory mandated report, and in the last sentence of the first paragraph it says, "Based upon our review to date," and that's in reference to the report that we're reviewing, "we'd like to offer the following as interim suggestions (inaudible)."

So in fact, the letter that was sent was consistent with both this committee's mission and the notice (inaudible).

Len.

MR. TRIMLETT: Len Trimlett. I'm totally in agreement with Charlie. I think it was very distinctly stated in the session in Sacramento that the attorney said you cannot discuss -- you cannot write on anything that was not on that agenda. The

discussion of that letter was not on that agenda, so I find it hard to believe that you had the okay to do that.

I also ask, this falls under not the Brown Act but it falls under the Bagley-Keen Open Meetings Act, and I specifically wrote to the Governor and asked him for an opinion, does that meet with your approval? I'm still waiting for that response.

As far as that's concerned, very clearly in that last meeting, you can't lobby the Legislature. Furthermore, it wasn't on your agenda and as far as I'm concerned, if it weren't on the agenda, how can you meet the approval?

I also ask the question, were three-way conversations held or did you take it upon yourself to write that letter? And if three-way conversations were held off the record, then that becomes a Brown Act issue. I would like the answer to those questions.

And also, Rocky mentioned the letters that the committee received. I did not hear my remote sensing letter being received by that committee.

CHAIR WEISSER: Thank you. Rocky.

MR. CARLISLE: Yeah, I'd like to reply to that. That committee went to Mark Carlock at the Air Resources Board. Now, you have sent copies, but we

have no authority to tell the Air Resources Board anything.

MR. TRIMLETT: No, I didn't refer to that letter. I referred to the remote sensing letter supplemental to the Mark Carlock letter.

MR. CARLISLE: That was one that was sent some time ago to the Bureau of Automotive Repair, as I recall.

MR. TRIMLETT: It was written again and delivered about between last meeting and this meeting.

CHAIR WEISSER: Well, I'm going to suggest at this point, Len, that during the break you and Rocky sit down and pin down where that letter was sent.

MR. TRIMLETT: Thank you.

CHAIR WEISSER: Let me respond to your questions, as best as I can remember them, and if I forget one, remind me.

There were no three-way conversations following the meeting. Absolutely none.

MR. TRIMLETT: Thank you.

CHAIR WEISSER: Number two, yeah, the attorney during the meeting tried to give us advice and thoughts associated with what we can and cannot discuss and can and cannot do. I want to emphasize, however, that the role of an attorney is to provide their client, in this case this committee, with

advice. It's up to the client to make a decision based upon his or her interpretation of that advice, and it was my interpretation and that of the committee that in fact the listing of the pending report and the review process that the committee is going through of the pending report was sufficient for the purposes of the Open Meeting Act.

Subsequent to the meeting I had conversation with other folks on this issue, not among the committee members, but outside, and they assured me that we were within our — on solid ground for our ability to write such a letter.

I felt it was important, by the way, Len, that we did write a letter. I think it was important for us to get our opinions on the record. And I was pleased that the requirements of both the Brown Act and the Bagley-Keene Act didn't constrain us in that regard.

You've written a letter and I respect your disagreement with the action of this committee. I can certainly understand. And I'm curious as you are as to what response you'll get.

MR. CARLISLE: Mr. Chairman, under tab four, I stand corrected. You are right, Mr. Trimlett, there is a copy of the letter, however, the salutation is Dear Governor Swarzenegger, it doesn't say Dear IMRC,

so it doesn't request anything from us, it's directed to the Governor.

MR. TRIMLETT: Thank you.

CHAIR WEISSER: Okay. Mr. DeCota.

MEMBER DECOTA: I believe the committee voted on writing such a letter at the last meeting. This was in a public forum. The letter and the opinions of the committee, we are the IMRC advisory committee and it is extremely important for us to at least express an opinion as it relates to this program and to the Legislature.

I commend the chair for a fine job in writing the letter that I thought was very, very well done. I think it took a great deal of time and effort from staff and our chairman to get that done and I think it's important that it be on the record that IMRC doesn't necessarily agree with the removal of fifth and six year vehicles. It did one thing; it created a situation of knowledge and I commend the actions of our chair for this. Thank you.

CHAIR WEISSER: Thank you very much. I'll pay you back (inaudible). Chris.

MR. ERVINE: Chris Ervine with the Coalition of State Test-and-repair Stations. If I read the minutes of the last meeting, the committee supported the exemption of five and six year vehicles, and is this not a complete flip-flop from what the committee

had previously discussed and voted on in the past? And being as it is a complete flip-flop from what had been discussed in the past, would that not require some kind of public notice?

CHAIR WEISSER: Thank you, Chris. This committee did not endorse the exemption of the fifth and sixth year vehicles. This committee acknowledged that it appears that the emission reductions that could be garnered through the charging of owners of five and six-year-old cars for not having their vehicles inspected under Smog Check would or could produce greater emission reductions at less cost than the existing fifth and sixth year program in Smog Check. But this committee did not endorse.

And in fact, in our letter we raised the issues associated with the fifth and sixth year. We raised the fact that it is going to lose emission reductions, and we urged the Governor and the Legislative leadership to identify ways for us to get additional cost-effective emission reductions from the light duty vehicle fleet.

At least it was not my intention nor do I believe the committee's intention to in and of itself endorse the fifth or sixth year waiver. We do not -- I don't think we ever actually voted on anything that specific. What I tried to do was to capture from the transcript that was provided the essence of the

conversation that we had. Remember when I listed the points last month, here's what the letter would say? I just kind of extracted from that and turn my verbal blathering into a coherent letter.

Mr. Armstrong and then we'll go back to Mr. Peters.

MR. ARMSTRONG: Yes, Mr. Chairman, my name is Larry Armstrong. I think I'd like to call your attention to item two of the minutes that this committee produced and the first bullet point says, "The committee supports the proposed exemption of the fifth and sixth model year vehicles from biennial emissions testing in exchange for additional Carl Moyer funding." That's pretty clear to me that your minutes disagree with what you just said a moment ago.

And as long as you did give me the opportunity to speak, we spoke about outrage here one time and I will tell you that I was very much discouraged when I read the letter that you produced that seemed to me to far outside the responsibility of the chairman of this committee. It seemed to be my limited experience with your job that you have, it seems to be that you were more lobbying for that job than as the responsibilities of this committee that, as I've pointed out before, I feel have absolutely no relationship to a Carl Moyer fund. That's not your responsibility, that's not the responsibility of this

committee. It may or may not be a good or bad thing, but it was not under the purview of this committee and I really take strong objection to the letter that was written, the way that it was written. And I believe there was a conflict in there. Whether it's a legal conflict or not, there was certainly an ethical conflict in my opinion. Thank you.

CHAIR WEISSER: Thank you, Mr. Armstrong. And thank you for highlighting the proposed minutes. I'm trying to chew on [interference] this committee's responsibility is frankly a bit misguided. I think that the fact that this committee focuses its efforts on the Smog Check Program and air quality associated with that and the recent proposal by the Governor and the Legislative leadership to essentially swap some resources that would be garnered from the Smog Check Program to apply them to Carl Moyer is indicative of the real situation. That in fact this program and the Carl Moyer Program and other mobile source emission reduction programs are all kind of interrelated.

I recognize that you may not agree with that perspective, but I think that it's incumbent upon this committee to look at its responsibilities in the context of the rest of the emission reductions world.

However, back to the initial point that you've made associated with use of the word 'supports.' I think you may have a point, and I guess

what I'd like to suggest is that we reconsider the minutes to reflect the fact that the committee in fact did not take a position of supporting any of the items put forward in the proposed changes by the Governor and the Legislative leadership. What our letter did was to try to acknowledge that we understood the rationale behind those changes, and to suggest that those same folks who put together that proposal look broader and deeper at cost-effective emission reductions.

And therefore, what we might want to do -- well, I guess I'm open for suggestions. I mean, we could do something as modest as changing the word 'supports' to 'understands.'

MEMBER LAMARE: Acknowledges.

CHAIR WEISSER: Or 'acknowledges,' and leave it at that. That would be a change in the first bullet. Rather than saying the committee supports the proposed exemption, the committee understands the basis for the proposed exemption. On the second bullet, the committee understands the basis for the proposed elimination of the currently required change. We would leave the third bullet as it is, and I believe the remainder of this section would remain as is, according to my quick reading.

MEMBER LAMARE: So moved.

CHAIR WEISSER: So there is a motion that we would change the words in the first and the second bullets. We would eliminate the word 'supports' and we would insert in its place 'understands the basis for.'

MEMBER HOTCHKISS: I'll second.

CHAIR WEISSER: There's a second from Mr. Hotchkiss.

MEMBER HISSERICH: If I may.

CHAIR WEISSER: Mr. Hisserich.

MEMBER HISSERICH: On the third one there I'm not sure what the wording. Maybe we could just say the committee previously took action and take the words (inaudible). I don't quite know what that means.

CHAIR WEISSER: I would recommend that -- well, you're making a motion to modify the previous motion.

MEMBER HISSERICH: I guess I am, yeah.

CHAIR WEISSER: And I'll second that for purposes to have a discussion. I would think that we could just eliminate that one. I'm not sure in the context of the remaining items it really fits, so that's been seconded.

MEMBER LAMARE: How about 'acknowledge the fact.'

CHAIR WEISSER: Okay. Rocky, then we'll just say that the committee acknowledges the fact that it previously took action that supported.

Mr. DeCota.

MEMBER DECOTA: For those that are not familiar with the letter —

CHAIR WEISSER: It's been handed out.

MEMBER DECOTA: It's been handed out, but the letter does not support. We voted the minutes be approved and I don't know how you could change that, but —

CHAIR WEISSER: Well, I don't either.

MEMBER DECOTA: I do want to make sure that we all understand here that there is error in the word 'support' because that is not the actions of this committee.

CHAIR WEISSER: And I would urge you to read the letter carefully. I tried very carefully to reflect the nature of our conversation on this.

MEMBER HISSERICH: I think you did, Mr. Chairman. I think the letter properly captures the spirit of the whole sequence of events there, because it does discuss the relationship and our understanding that there are balancing issues, but the action of the committee at that time that said the committee supported the retention of these vehicles in the testing program. And I think that the objective

of the minutes was to go through that sequence and reflected what we wanted it to.

MEMBER DECOTA: I take back all the nice things I've said about you.

CHAIR WEISSER: I'll take responsibility for the minutes not reflecting. I did not (inaudible) that was desired.

Is there any further discussion among members of the committee? So what we are talking about is making changes in the first and the second paragraphs of bullets.

MEMBER DECOTA: As the maker of the original motion on the minutes, can I withdraw?

CHAIR WEISSER: The appropriate action would be to vote on the motion to modify the minutes, John's motion, that – and if I can restate it accurately without getting ourselves tied up on knots via Robert's Rules of Order – my understanding, John, is that you would now suggest that we just eliminate the third item.

MEMBER HISSERICH: Right.

CHAIR WEISSER: First we'll do John's and then we'll go back to the original motion. I feel for the transcriber (inaudible).

So the motion by Mr. Hisserich is to modify the draft minutes to eliminate the fact that the committee previously took action blah-blah-blah.

MEMBER HISSERICH: Just so we're not confused, all I wanted was a verb there so I'm comfortable either way, but I think it might be better frankly to reflect the entire discussion and to say we acknowledge the fact.

CHAIR WEISSER: So you have made a modification to your original motion. I don't want to get us tied up in all this stuff. I think the committee understands. So first we're going to vote to change the word 'fact' to 'acknowledges' that we have previously took action. All in favor please say aye.

IN UNISON: Aye.

CHAIR WEISSER: Any opposed say no.

Now we're going to include that as part of the original motion. The original motion was to eliminate the word 'supports' in the first and second dots in the minutes and insert the words 'understands the basis for.' Is there any discussion on the part of the committee on that, just this section?

Now I'm going to open it up for any comments from the audience, completely limited to the issue at hand, the proposed revision to the minutes. We'll start first with Chris and then we'll go to Mr. Armstrong.

MR. ERVINE: Chris Ervine, Coalition of State Test-and-Repair Stations. I think we ought to

call an apple an apple and an orange an orange. We don't acknowledge what's happening on there; the committee actually opposed it and I think that the wording should be that the committee opposes it, because as it's stated in blurb three here, "previously took action that supported the retention of the fifth and sixth year." So I think that --

MR. ARMSTRONG: Yes, Mr. Chairman, my name again is Larry Armstrong. Regarding the number three bullet point, my recollection is that this committee gave instructions to send a letter to the Air Resources Board back supporting the retention of fifth and sixth year vehicles. I have asked Mr. Carlisle for a copy of that letter that was directed to be sent. I have been read a copy of the draft of that letter, I have never received a copy of the letter, so I'd like to place on the public record my request that I get that letter and if it does not exist I would like to know today on the public record if that letter does not exist, that this committee in fact did not send a letter in support of retaining the five and six year vehicles in the program.

CHAIR WEISSER: Thank you, Larry.

Rocky?

MR. CARLISLE: To date we have been unable to find a copy of the final document that went to the ARB stating that. We have found some drafts, but I

have no formal record of a letter that was sent to the Air Resources Board.

CHAIR WEISSER: Can you give me a sense about when such a letter would have been sent?

MR. CARLISLE: If I recall, it would have been about April of last year.

CHAIR WEISSER: April of 2003?

MR. CARLISLE: Correct.

CHAIR WEISSER: I'm sure that we did send something, Larry. This is the first I became aware of your searching for this letter. I would ask Rocky if you couldn't contact my office to see whether we have anything in our files at California Council for Environmental and Economic Balance in San Francisco, and also Mr. Cackette's office at the ARB to see whether he has something on file. And we'll pursue this. I'm almost certain that we did send a letter on it. I may be mistaken.

Mr. Peters. You just lost your turn for speaking, Mr. Peters, your phone is on.

MR. PETERS: Mr. Chairman, Charlie Peters. I wanted to say something about the previous subject but you've restricted it to this particular issue so I will address this particular issue.

Mr. Chairman and committee, I'm Charlie Peters, Clean Air Performance Professionals. We're a coalition of motorists. The issue here is a

recognition that the fifth and sixth year exemption from Smog Check in relation to the benefits of Carl Moyer, that Carl Moyer would provide a larger benefit. The committee is in the process in my perception of reviewing program performance and how it works. Even the Air Resources Board when they make presentations to the committee discuss and have on their overhead the issue of ancillary effect.

In my humble opinion, the ancillary effect of Smog Check is a prevention process that changes behavior and there should be a very significant reduction credit in Smog Check that comes from the ancillary effect, which has not been discussed at all. I personally believe that the position that was taken has not been an issue that's been appropriately discussed and at this point it's not an appropriate situation to take a position on that because I think there is considerations there that have not been made as to what kind of ancillary effect or what kind of a prevention process takes place.

In talking with Mr. Carlock of the Air Resources Board, he indicated that initially they have a 30 percent failure rate on the new cars that were being tested. Because of the Smog Check Program and because of the Air Resources Board review, that 30 percent failure rate has gone to zero, and that effects the car during its entire life. So the

standards set by Smog Check create a very significant ancillary effect that is not being given appropriate credit by this committee, so your position that Carl Moyer is more effective than the Smog Check Program in my view is not valid and needs further consideration by the committee.

CHAIR WEISSER: Thank you very much.

Ms. Lamare.

MEMBER LAMARE: I thought the motion was to remove 'support' in the first bullet and 'acknowledge that we understand the basis for.'

CHAIR WEISSER: Um-hmm.

MEMBER LAMARE: In the second bullet, however, as I recall the discussion, this is about exemption for vehicles two years old or newer from change of ownership Smog Check. As I recall last time, there were certain parts of the evaluation report which seemed that we have consensus on it, that the ARB and BAR evaluation of the first two year of Smog Check change of ownership was that it would be a wise thing to do. And I'm quoting from the report, "Exempting newer cars two years or less that are still under full warranty from the requirement for a Smog Check upon change of ownership."

On the basis of the ARB report recommending the two-year, I thought the committee felt comfortable supporting the two-year. The Governor's proposal was

a four-year change of ownership, and so we didn't really feel comfortable with the four-year and no support for that.

So I think the bullet there is correct even though it doesn't really go all the way, that we do support the two-year because the report supports the two-year and there's a scientific or an analysis behind the report that says it's a cost-effective thing to do.

So, I don't think that's what your motion should say.

CHAIR WEISSER: Do you have a proposed replacement for that portion of the motion? Why don't you think that over while we hear from Mr. Hotchkiss.

MEMBER LAMARE: The minutes reflect –

CHAIR WEISSER: You would keep the second bullet as it is; is that correct??

MEMBER DECOTA: Maybe we should add to clarify –

MEMBER LAMARE: But not the four-year.

CHAIR WEISSER: You know, we're spending a lot of time talking about an action that we took, and my sense is the letter kind of speaks for itself.

MEMBER LAMARE: The letter does.

CHAIR WEISSER: It really does, because I clipped it from the wonderful transcript that Lynn and Rocky were able to provide us. It does reflect the

compensation. What I'm going to suggest is that for the time being we just table this discussion and I during the break that we're about to have go out to the back and with the assistance of modern medicine attempt to arrive at a one-sentence replacement for the entire second item, which will be that the committee had a motion to direct me to write a letter to the Governor regarding a recent proposal, period. And the transcript speaks for itself, it has our discussion in here. Is that something that the committee —

MEMBER LAMARE: Yeah.

CHAIR WEISSER: Then that's what I'm going to do. It's 10:36. We're going to temporarily adjourn this meeting for nine minutes, we'll come back at quarter to 11:00 and move on. Thank you.

(Off the record.)

CHAIR WEISSER: Okay, the meeting will come to order. I will regale the audience and committee members of a story, and the story was told to me when I was in college. I was in a class. Actually, I was working as an audio/visual specialist, which meant I had to turn the overhead projector on and off at the beginning and end of class. The class was in marketing, a subject I'm completely unfamiliar with, and the professor told us a story about a war that

took place in Chicago in the early thirties between two rival newspapers.

Competition was hot between those newspapers and they would use lurid headlines to try to sell more papers. One of the big selling features of both papers were comic strips, and this was the era of superheros, and there is a formula used in superhero comic books fundamentally to place the superhero in one after another after another of impossible situations and then the superhero somehow figures out how to escape from his or her difficulties and save the day.

Well, this paper had a superhero whose name escapes me at this time who was put in the situation of being buried 80 feet below the surface of the earth in a steel-lined container surrounded by 15 feet of reinforced steel concrete, and that in turn was surrounded by radioactive materials, electrified fences and the like. The circulation of this paper started growing and growing as the superhero was slowly starving to death, dying of asphyxiation and lack of water.

The writer of the comic book one day came up to the editor and said, 'Boss, I've got a little problem. I don't have a clue as to how to get this guy out of this mess.'

And the owner of the paper said, 'Well, what we're going to do is we're going to run a contest. We're going to run a contest to see if someone in our readership can come up and guess how the superhero escapes from this impossible dilemma.'

They ran the contest for a week, during which the paper circulation went up another 35, 40 percent, and when the week was over they started reviewing the hundreds of entries of how the superhero was going to get out of this dilemma. Each one stupider than the last. And at the end after going through these hundreds of suggestions, they were puzzled, they didn't know what to do.

Well, on Monday the paper came out and they had to have something, and the comic strip opened up with the line, "And with a single leap, he was free." And that's what I'm going to propose to this committee.

To deal with this issue – and I want to praise the member of the public who raised this contrast in what was in the draft minutes to the actual discussion that took place at our meeting and to the letter which I've signed, is I'm going to suggest that we replace the entire number two with the following:

"Moved by Chair Weisser and seconded by Member DeCota that the IMRC write a letter to the

Governor and the Legislature regarding the recent proposal to exempt the fifth and sixth year new model year vehicles from the existing requirement to take and pass a Smog Check and also eliminate the current requirement for a Smog Check upon change of ownership of vehicles during their first four years," period, end of item.

Basically what I've done is extract a portion of our letter and attached that to the beginning of item number two. Does everyone here understand that?

MEMBER DECOTA: Sounds just like what happened.

CHAIR WEISSER: Is there a second to my motion to make that suggestion? Let me read it again.

"Moved by Chair Weisser and seconded by Member DeCota that the IMRC write a letter to the Governor and the Legislature regarding the recent proposal to exempt the fifth and sixth new model year vehicles from the existing requirement to take and pass a Smog Check and also eliminate the current requirement for a Smog Check upon change of ownership of vehicles during their first four years," period.

At the end of that item in the minutes we would repeat the vote, and the vote was and still is seven aye, one no, Member Pearman, one abstention, Member Covell, period, motion carried, period.

So I've made this as a motion to replace the second item in the draft minutes. Is there a second?

MEMBER HISSERICH: Second.

CHAIR WEISSER: It's been seconded by Mr. Hisserich. Is there any discussion on behalf of the members of the committee? Are there any final comments from members of the audience on this?

MALE VOICE: You have a current motion before the board already.

CHAIR WEISSER: You're right, and I will characterize what I've just made as a substitute motion. Thank you very much.

Mr. Armstrong.

MR. ARMSTRONG: Yes, Mr. Chairman, my name again is Larry Armstrong. I believe what we're doing is moving around the responsibility here of the Inspection and Maintenance Review Committee being opposed to the removal of vehicles in the five and six year. That sounds smooth but it does not say that this committee is opposed to that and in the past has already voted to be opposed to that.

Maybe I was asleep when there was a conversation about removing vehicles from the change of ownership, but I would hope that you people could understand that if there is one change of ownership without responsibility affixed to that change of ownership in the form of a Smog Check, that the Smog

Check program just went to hell, and who do you hold responsible for repairs or tamper or whatever that that car might need further down the line? I cannot believe that this committee doesn't have the expertise to figure that one out that that ought to be an absolute no, and I would urge you to think about what you're saying and think about the ramifications of what you're saying and maybe get with the program of supporting the Smog Check Program in this state. Either that, or resign your positions if you have other motives for being here.

I have a motive for being here, but I get to have a conflict of interest, but I don't believe that you folks ought to come here with a conflict of interest and not take things logically and go down the line. You have accepted an absurd theory that changing a diesel engine in some farmer's yard is going to outperform the Smog Check Program, and that unfortunately is not true, and you folks don't have the information available to make that decision so please don't make it until you have valid scientific information to make those decisions. You are going on the record for things that quite frankly I believe that this committee doesn't know what it's talking about because you do not have the advantage of having any information as I understand it that has been

provided to this committee yet to make those decisions, so please don't make them.

As you get scientific information, I would like to have access to a copy of it because I would be more than willing to assist, because sometimes you get information that is bogus from regulators that should be responsible. Thank you.

CHAIR WEISSER: Thank you, Mr. Armstrong. Len and then Mr. Peters.

MR. TRIMLETT: Len Trimlett. I'd like to ask another question that pertains directly to this and the previous discussion. My question is, are you taking the role to expand the function of the IMRC to include diesels? I don't see any expertise up there on that panel on diesels, and it was stated in that previous discussion. What is your position, are you going to diesels or not?

CHAIR WEISSER: The statute has defined the committee's role very explicitly. We believe the comments that we're offering are consistent with that role.

Mr. Peters.

MR. PETERS: Mr. Chairman and committee, I'm Charlie Peters, Clean Air Performance Professionals. We're a consortium of motorists. I'd like to just throw out a small additional issue here that is particular to your discussion and that is the car

business tends to move cars around the country very rapidly and when there's a demand that demand is met very quickly.

This removal of the first four years of change of ownership will create a significant incentive to bring vehicles that have things like catalytic converters removed, et cetera, from all over the country here because of our very strong used car market, and I believe the change of ownership or the initial registration renewable Smog Check requirements can have a very significant market as well as an environmental impact, and I think that needs careful consideration before this Carl Moyer is better than what the Smog Check is producing issue.

The public, the markets are very much encouraged and there is a huge ancillary effect from the Smog Check Program that in my opinion is not getting appropriate credit, and I believe it's appropriate for in-depth discussion and decision process before this decision that Carl Moyer is somehow or another more effective than Smog Check, because that certainly is not my opinion.

Thank you for allowing me to speak.

CHAIR WEISSER: Thank you. Yes, please. And if I fail to see people in the corner, just yell.

MR. RAYBURN: Good morning. My name is Gerald Rayburn, I'm with Glenmoore Auto Repair. I

spoke the other day with Dennis DeCota and I'm not totally sure on what is happening with the exemption of the fifth and the sixth year. They're not going to be going to get smogged, so the state's - or the Bureau of Automotive Repair is going to be losing \$8.25 on the smog certificate.

How much is it gaining by the DMV switching those funds to the Carl Moyer fund, if that's what we're trying to do? Is this a shell game to move money out of the smog program to reduce smog and to take it over and take it somewhere else? I don't think that's what we're trying to do from my standpoint in cleaning up the environment in California. We should be keeping the smog program and the Carl Moyer program should be standing on its own if they want to do that. I think most of the farmers in California that I know can more than adequately afford to keep their Leer jet on the ground for a few minutes and put a smog reduction system on their fleet of five, fifty or eighty vehicles.

Now, asking the test-and-repair and the rest of the environment to give that up to subsidize them, we're doing the same thing that the tobacco industry does, so let's wake up and look at what's going on here. I don't see any help to the environment through this whatsoever except to move money around to somebody else that doesn't really need it. Thank you.

CHAIR WEISSER: Thank you. Rocky, did you have a comment?

MR. CARLISLE: I'd just like to comment that the bureau doesn't lose any money under that provision because there's \$4 a year assessed on each vehicle for that fifth and sixth year in addition to Carl Moyer funding.

CHAIR WEISSER: Thank you. I'm not clear on the statistics because I haven't actually seen a bill where the statistics are related directly, all we've seen is the outlines of a proposal, so I have not seen the wording.

Are there any other questions or comments specifically on the motion to amend the motion to modify the minutes to more accurately reflect the nature of our conversation last month? I hear none, then we will take a vote on the motion to amend — [interference].

Well, this has been interesting and I think we've learned a lesson, and that lesson is that we need to really focus in on ensuring that our minutes are minimal minutes, that they're very summary minutes, and that folks that want more background in terms of the nature of our conversation be directed to the transcript, and I think it's a lesson worth learning, we need to be very careful.

I want to highlight my appreciation for raising the disconnect between the minutes and the actual discussion that took place by the members of the public, and also acknowledge the value of the points that were raised both on the process, but more importantly in my mind on some of the content issues and substance issues that have been raised. And while I most assuredly do not agree with each and every issue that has been raised, I've listened carefully to them and I think you're helping inform me and I'm sure the members of the committee on your perspectives.

— o0o —

Okay. I'd like to move on to the next item on the agenda relating to the nomination and appointment of a vice-chair. Folks in the audience know we lost our vice-chair Norm Covell to retirement last month, and the question before the committee is whether we should appoint a new vice-chair, and if so, who that vice-chair might be.

I'm going to suggest to the committee that at this point in time we take no action on this item and rather give some thought to the issue of whether we should have a new vice-chair, and if so, who that vice-chair might be, and put this item over at least until our next meeting in August. Is there any disagreement on that? Okay.

— o0o —

The next item on the agenda is the ARB/BAR technical support document for the report. I know that there are some folks from the agencies that are here that are available to answer any questions that the committee might have regarding the technical support document, and perhaps provide an additional overview of what's in the technical support document. But perhaps I might ask Rocky Carlisle to set the stage for this item in our discussion.

MR. CARLISLE: Actually, I've requested ARB staff here to answer any questions regarding the support document. We've had it for awhile and I know there are some concerns that Ms. Lamare had and possibly Mr. Williams with regard to the technical support document. Mr. Doug Lawson had commented on the report and he referred to the technical support document as well. So that was really the intent of involving them here today.

CHAIR WEISSER: Well, maybe what might be a good idea is -- Mr. Peters, for the very last time I'm going to ask you to turn off your phone. Thank you.

The question that I would put before the committee is those that have been on the committee for awhile have had a chance to review the document. We have subcommittees that are looking at various pieces of the document. I don't know if any members of the committee have additional questions that they would

like to put before the ARB and BAR staff that are here, nor [interference]. And I see the ARB and BAR staff are saying no, the document stands for itself.

There, I understand, have been conversations between the IMRC staff, a couple of the IMRC members that are on the team, and the agency staff. The communications seem to be going well. I know that executive officer Carlisle has asked committee members if they have questions to funnel them through the subcommittee and Rocky to ensure that the agency staff don't get hit with duplicative or contradictory sorts of inquiries.

Is that process going well, Rocky?

MR. CARLISLE: Yes, it is, as a matter of fact. The secondary reason, however, the catch 22 here is that they were here also to back up any questions that may occur as a result of the memorandum, but because of --

CHAIR WEISSER: What memorandum?

MR. CARLISLE: The memorandum with regard to idle testing and the ASM. However, that was not on the agenda because of the time at which I got the memorandum, it was too late to add to the agenda.

CHAIR WEISSER: Okay. But the issue, the item and working group are on the agenda. Are copies of that memorandum available to the public, Rocky?

MR. CARLISLE: Not yet, no.

CHAIR WEISSER: Not yet?

MR. CARLISLE: And may I point out that under item one that is a topic, so it would certainly be fair game for discussion.

CHAIR WEISSER: Well, Rocky, can I ask you then, this may be the opportune moment to discuss that memorandum and put it in context that we and the audience that doesn't have the memorandum in front of them so they can understand what the issues were and what the questions were. Could you spend some time with us and go through the memo and describe what we're trying to accomplish here?

MR. CARLISLE: Some time ago the subcommittee of Dennis DeCota and Mark Martin were concerned that with the removal of the idle test from the ASM -- of course it was never part of the idle test -- but removal of the idle test from the program that there were some emissions losses, because some vehicles will pass an ASM test that will subsequently fail an idle test because the idle test is very sensitive to vacuum leaks, for example, where the ASM test is less sensitive to vacuum leaks.

It was requested of the Bureau of Automotive Repair and the Air Resources Board that they investigate that, which they did do, and they subsequently issued this memorandum on July 13th. What they found was that essentially if they included

the '74 model year through '95, that they would reduce the emissions of reactive organic gasses by 3.1 tons per day in calendar year 2005.

They also comment that the rolling window has an effect on that as well, because if the rolling window stayed in effect that benefit would be reduced by 2010 to 1.4 tons per day.

CHAIR WEISSER: Let me interrupt you for a second. So the concept here is you would be considering whether or not the committee should recommend that an idle test be added to the panoply of tests.

MR. CARLISLE: Yes.

CHAIR WEISSER: And the initial data review showed that if we did that for the existing fleet subject to Smog Check, it would reduce how many tons?

MR. CARLISLE: Three point one.

CHAIR WEISSER: And that's tons per day and is that statewide or south coast?

MR. CARLISLE: Tons per day.

CHAIR WEISSER: Statewide?

MR. CARLISLE: I believe that's in enhanced areas.

MEMBER DECOTA: It is.

CHAIR WEISSER: Please continue.

MR. CARLISLE: They did additional analysis, however, in looking at the tightening of cut points

for the ASM test, and they believe that reducing those cut points for the ASM test without adding the idle test to the process would be just as beneficial. They're working on that this summer.

The problem with adding the idle test to the ASM currently involves a software change which at minimum would take two years to accommodate all three manufacturers in this program. And not only is it going to take three years but it would also take, they estimate \$400 per station for the software upgrade, assuming that the software upgrade would include other changes in the software. So you could get those reductions for about \$4,000 a ton even if you added the software component in there, so that's still reasonable cost reductions.

CHAIR WEISSER: Well, I think it's important for this committee to know whether or not the software modifications are planned to be required by station owners, and if so, over what timeframe, so we could better understand whether this could be done in conjunction with some already planned update of software. Is there someone from the agencies that could answer that question?

MR. TALOR: Good morning, my name is John Talor, I'm staff at the Air Resources Board. I think maybe to put this memo in a little better context, this is actually an internal memo that was generated

by ARB staff for ARB management, and at this point it was really our first take or attempt to look at all the issues surrounding adding an idle test to the ASM test, so at this point a lot of the details haven't been worked out and this is preliminary. And of course we're waiting to see -- we're contracting with Sierra Research to do this work to look at lowering the ASM cut points and the impact that that would have. So this is just a preliminary document, it's not a recommendation, and it was shared with the IMRC as a courtesy to let the IMRC know where we're going with this, but really there was no intention that this be the final recommendation as to the adding the idle test to ASM. So if you look at in that context, there's a lot of issues yet to be resolved.

We got some preliminary information from the Bureau of Automotive Repair, they were very helpful in what it would take to add an idle test, what would it take for software and hardware and anything else required, but it was really just some preliminary discussion so it really doesn't reflect what -- I won't speak for BAR, but I don't think it reflects exactly what our best estimate would be of what it would take to implement that test.

CHAIR WEISSER: Recognizing you're not making a recommendation here, this is a interim kind of information sharing internal to the agency. Do you

or does anyone from BAR know whether or not there's a planned software that's going to be required of the equipment owners in the next couple, three, four years? I am not seeing anybody jump up and down.

Rocky, I'd like you to pursue that to find out if there is anything coming down the pipe, because I think that impact whether or not something like this is worthwhile.

Before you run away – I don't mean run away – but thank you for that information. I can assure you nobody's pinned anything yet on this, but the issue does raise interest because of the relative cost-effectiveness per ton. That cost effectiveness also includes the cost associated with station owners ponying up another 400 bucks or whatever the cost is?

MR. TALOR: Yes, that was included in our analysis.

CHAIR WEISSER: And the assumption of course is they would adjust prices in order to recoup that along with the other sorts of costs that –

MR. TALOR: Yeah. And I think we assumed it would be like half a minute additional test time and we factored it at a cost of that.

CHAIR WEISSER: I'm real curious, and this is part of my education, to explore, and I don't know Rocky how and when to best do that, a very fundamental issue associated with the setting of cut points. I

know there's been a lot of controversy around the initial setting of cut points for the program as being too easy pass, we weren't failing enough cars, but I've heard discussion that the relative amount of emission reductions that you get from fixing a car that fails that is relatively close to passing is not that great. [interference] that is gained by fixing those cars that barely fail is relatively miniscule. I don't know, first of all, if that's true, but that's what I've heard from some experts in the area.

MR. TALOR: Well, I think that's part of the study that Sierra Research is going to do, they're going to look at how low, after a car is repaired, where are its emissions then, how far below the cut points are its emissions and could the cut points actually be lowered to make sure the car is repaired effectively and the after repair emissions are down where we would expect them to be where we get real emission benefits.

CHAIR WEISSER: Yeah, I guess the question in my mind is focused on a lot of our energies, the energies of the industry, the expenses to the public and the industry for fixing marginal failures. Are you better off putting those societal resources into marginal failures or are you better off going after the gross polluters. I don't know what the answer is

but I'm raising it as kind of a conceptual issue I'd be interested in the committee pursuing.

If I could ask you to take a seat but don't leave right away because we have some questions from the audience. We'll go Mr. Carlisle and then we'll work from the back wall.

MR. CARLISLE: Just one thing. Couple months ago the Bureau of Automotive Repair did a presentation with regard to low pressure fuel evap testing, and if I haven't missed it, I suspect the software upgrades would be to accommodate that test sometime next year. I think their intention was to start it in manual mode and eventually turn that over into a software upgrade into the machine, so that's one of the software upgrades I suspect they're anticipating.

CHAIR WEISSER: Thank you. I note the members of the committee and in particular Ms. Lamare have commented on the growing importance of taking into consideration the evaporative emissions component, particularly in newer vehicles where the cars are operating so darn clean evaporative emissions can be a substantial part of the problem. In fact, I've read studies that have shown that the evaporation off of new paint and new tires and the seats in cars is actually as equal to or greater in their first year as their emissions. I've also read that the Hemlock

Society has advised its members to not try to kill themselves by locking themselves in their garages with a new car because they're going to be there a week and starve to death rather than die of poisoning.

The gentleman in the back.

MR. JIZRAWI: How you doing?

CHAIR WEISSER: Hanging in there. How about yourself?

MR. JIZRAWI: My name is Peter, and –

CHAIR WEISSER: Peter, what's your last name?

MR. JIZRAWI: Pete Jizrawi, Automotive Diagnostic Center, San Rafael.

CHAIR WEISSER: Thank you.

MR. JIZRAWI: About this emission about the passing part, a kind of interesting subject to me. I'm a CAP station by the way, too, so I do a lot of repairs for CAP for low income people, and the thing that makes me very interested to know is I'd be really interested in if the committee could somehow collect data, and I'm sure they could because all the machines have data in them of all over California.

Here's the situation. I'm very well in wanting to help the people on low income, that is true and fact. But the same interest what's happening is if you get a vehicle that's way over the \$500 limit, they actually will let that vehicle go to a referee

and then at the same time get it smogged and let that car go on the road polluting.

Now, I have done myself for example every month an average of three or four cars. Now I'm just three or four cars, but take all the low income, they don't have to pay the money, nothing, and then now take the data from all the CAP stations and see how many cars on the road are still polluted. If they really care about the air, why are they letting those cars on the road being polluted and then at the same time they're trying to clean air? It's a contradiction, okay, you're contradicting yourself, correct? So that's what I really want to collect data on because that kind of upsets me. At one point they want to clean air, at another point they don't want to clean air.

And the thing is what also bothers me is that the thing is I know this kind of may be off the subject a little, but the thing that bothers me about this whole test-only thing is that you got customers that you've been repairing their car for ten, fifteen years. Okay, we've been around for 35 years and doing smog, and then all of a sudden you're losing that customer to another person and then you might be losing their brothers and sisters and their mothers and so on and on because now they like the other smog

place, so now you're not only losing that customer but you're losing other customers.

And then the only that also that is funny [interference]. Here I want you to do smog check. I told her I can't. She's arguing with me. I really can't, I can't control it, you have to go. And then you have customers that are swearing that walk out of them (inaudible) for the way they're being controlled. Those kind of issues have to be raised.

But the most main thing is I'd like to really know a survey of how many cars that are over the \$500 that they don't have to pay. That is very important to me. I want to see is it 1,000 cars, is it 2,000 cars over all the year, how many cars, and that will be interesting to see how much contradiction. Here we're passing (inaudible) cars, but we're letting 2-3,000 go. See where the balance is and how much you're letting go.

CHAIR WEISSER: Thank you very much for coming to the meeting and sharing that information. And in fact, one of the purposes today is to get issues that you want us to explore in our review.

Rocky, it seems to me that the issue of how many high polluting cars have been given, I understand it is a two-year waiver when they fail the Smog Check test and are deemed to be unrepairable for less than \$500, they're given one two-year exemption. Am I

reading that right? I see somebody who looks knowledgeable in the back raising their hand, so come on up if you would.

MS. RUNKLE: I'm Kathy Runkle with the Bureau of Automotive Repair, and the first quarter 2004 there were 431 waivers issued.

CHAIR WEISSER: 431 waivers for the first quarter of what year?

MS. RUNKLE: 2004.

CHAIR WEISSER: 2004. Does that imply there being 1600 about in an average year or is this higher or lower than what are normally --

MS. RUNKLE: No, it's about the same.

CHAIR WEISSER: It's about the same. So you have 1600 cars that are known high polluters that are out on the road with the state basically saying we're not going to do anything about it. They're not going to help you repair, we're not going to scrap them, we're going to let them run for one two-year period. Is there any idea how much those cars translate into in terms of emissions?

MS. RUNKLE: No.

CHAIR WEISSER: Does ARB have any information? Rocky, I'd like you to pursue that.

I see a question on our panel.

MEMBER DECOTA: As always, you're such a good chair you asked my question.

CHAIR WEISSER: Please.

MEMBER HOTCHKISS: Bruce Hotchkiss. My question kind of falls in on that. I'm just wondering how far over the limit? Are these cars that just almost made it or are these cars that no way made it?

MEMBER DECOTA: It should be (inaudible) tons per day.

CHAIR WEISSER: This one's excited a lot of interest, and that's great. I'm going to ask the other people before you come to add their remarks, and I'm particularly interested in any insights or ideas or thoughts that our newest member Tyrone might have in terms of how we can address folks that are lower income, have less resources at their immediate disposal, how can we as a state engage in both assisting in the reduction of emissions and also ensuring these people have adequate transportation to get to jobs and social services and recreation just like everybody else? So we're going to start this time from the front to the back, so we'll start with Len. And if you could keep your comments on the issue that we're talking about, and that's the issue associated with high polluting cars that have failed a Smog Check that are given a waiver. If you have comments on any other subject, we'll give you a chance to deal with those later. Len.

MR. TRIMLETT: Okay, my question relates to cut points. Issue at hand, Health and Safety Code 44013 says you can only fail five percent of the vehicles. Yet, in fact we heard discussion previously about cars failing [interference] 25 percent. Issue at hand here is how does the cut points set relate to these vehicles?

Now, we have in fact the certification standards at original sale. Those are in grams per mile. I'd like to see those certification standards converted to hydrocarbon, carbon monoxide and NOX vehicles and see if CARB is actually failing too many vehicles.

CHAIR WEISSER: Thank you, Len.

MR. TRIMLETT: Thank you.

CHAIR WEISSER: I know of no statute that caps the failures, but Rocky, could you research that and get back to us?

MR. TRIMLETT: 44013.

CHAIR WEISSER: Thank you. We're going to continue moving left to right with Mr. Armstrong.

MR. ARMSTRONG: Yes, my name again is Larry Armstrong. I believe the discussion actually started around the question of whether idle test ought to be re-instituted in the Smog Check Program. I have already told this committee that I am a non-computer type person, but I also try to apply some common sense

once in awhile, and the machine that every single enhanced area smog station has will perform an idle test if a basic test is required on that car, so it has the capability built into it, so my logic tells me that the conversion of that capability over to include it in as part of a enhanced dynamometer test would probably be something like falling off a log.

The question of reductions, a little bit off but maybe you brought it up, Mr. Chairman, and at the last meeting of the BAR Advisory Committee they pointed out, and I was glad they did it, but they pointed out that after repair as what they call fast pass comes into play, and if a vehicle can get repaired it might get repaired, for example, all the way down to manufacturer's specs, but as soon as that vehicle operates for, I believe, about ten seconds in a passing mode it gets passed and that's the number that's assigned to that vehicle.

So the fact of the matter is that you don't know and they don't know and nobody really knows what the effect of the Smog Check Program is because the vehicle gets passed at a point presumably less than what that vehicle might go to.

The issue of the CAP cars that my good friend Peter brought up CAP cars, so I will just say to you, and this is non-scientific, but I have heard that the CAP people are declining further repairs

beyond a minimum pass. And as you folks will recall, I have asked many times what is a pass? Does a vehicle pass when it passes or is there some kind of magic that allows people to go out and demand further repairs from a custom beyond a legal pass? If my own government is doing what I suggest is what the law requires and declining to send additional CAP dollars, then I find that interesting.

CHAIR WEISSER: Thank you, Larry.

MR. ARMSTRONG: Just one more quick comment.

CHAIR WEISSER: We're going to have to move on to the next speaker.

MR. ARMSTRONG: Just one more quick comment.

CHAIR WEISSER: No, Larry, we're going to move on to the next speaker and if we have additional time we'll come back to you to make that final comment. Thank you.

I think you've raised, by the way, several excellent points, and in particular the one associated with your fast pass as to the durability and emission reductions that you actually get, and I think that's precisely the issue that is being explored in more depth by the agencies (inaudible).

MR. ERVINE: On lowering the cut points, when we get down to vehicles that are borderline failing or passing, those are the most expensive emission reductions that you have. In many cases we

have to repair or replace parts that test good but they're just not good enough, and these cars are the ones that cost the high dollars to reduce emissions on.

On the CAP program, many of these cars aside from the fact that they're the worst maintained vehicles in the fleet, they're the highest polluting vehicles in the fleet, they're also the most unsafe vehicles in the fleet and I've requested CAP on numerous occasions that a safety inspection should be mandatory as part of the CAP program.

CHAIR WEISSER: Thank you, Chris. I've also wondered why California doesn't have an integrated approach toward Smog Check and safety. That's not our purview for right now, but it's a question that I've never understood. Many states have safety inspections at least once every year in those states. California of course with the biennial program once every two years you at least know that the cars have three wheels on them, the steering wheel won't fall off and their brake lights are on. Not that people use turn signals all the time, but that their turn signals work. And maybe in my next life I'll become an advocate for annual safety inspections for all cars.

Was there a question on the panel? Do you have anything you'd want to add at this point in time,

Tyrone? We'll give you plenty of chance just to listen.

MEMBER BUCKLEY: I'd like to spend a lot of time listening and give the public an opportunity to speak. I, you know, my first day, and I'm very interested about the member of the public who brought up the consumer assistance program. You often find (inaudible) advisory panel (inaudible).

I'm very interested in (inaudible). There's two pieces of information I think that could be very informative and I think they've both been brought up, but I'm very curious to see how far above the \$500 these cars, these 1600 cars that are falling out of the program, and also how much emissions does this represent with these cars. I think that would be very informative and I think really the struggle of this committee is to try to find a way to help those people do their part to keep our air clean here in California, also not on the backs of people who have the resources to actually do it, so I'd be very interested to hear from the public on what they suggest (inaudible).

CHAIR WEISSER: We're going to continue moving left to right and then return to people who have already spoken. Yeah. How you doing today, Frank? You have a new shirt on.

MR. BOHANAN: Oh, thank you. Frank Bohanan, Specialty Equipment Market Association. I'd like to talk about two aspects; number one, which cars to go after, and number two, the CAP program.

As far as which cars to go after, there's a lot of data out there that agrees with the fact that if you try to repair marginally failing vehicles you may in fact make things worse. There's been studies that have been done on that and it's really kind of a crap shoot, you can actually end up making emissions worse in some cases.

And the real thing you need to remember is that any model year vehicle, old, new, doesn't matter, has a hockey stick shaped tendency when it comes to emissions. The first 78 percent have a relatively low slope and that last 20 percent go off the chart. I mean, we're talking numbers like I could give you the remote sensing study from Virginia. The worst of the worst are up there at like for hydrocarbons at 5300, let's say, the median is about 850, and the mean is down around 350. Actually I got that reversed, excuse me, the median is the lower one.

But you get into a situation where the numbers don't really portray what is out there on the road and it comes down to a simple fact that when the [interference].

You know, in '96 with remote sensing they basically came to the conclusion that the best thing you can do is to identify the dirtiest ten percent of the vehicles and properly fix those vehicles. Now, that gets down into cost effectiveness numbers of like \$500 a ton. You're saying 4,000 is good. They're talking 500. And, you know, remote sensing does have the ability to do it when you're talking that level of resolution.

Lastly, as far as CAP, the thing there is that you've got to remember some people have to drive particular vehicles just due to their circumstances. They don't like being taken out of their vehicles. Those vehicles can be fixed very cost-effectively with things like upgrades. There are some technologies that you can put on older cars.

Now, granted, if the things got bent valves and bent rings it's a candidate for scrap, and all I can say there is to scrap it but don't get rid of the parts, keep the parts for repair.

But to the extent that some vehicles can be upgraded relatively cost-effectively, that keeps the person in their car so you don't have a disruption, you don't have the fault assumptions about what happens afterwards. If the car needs to be scrapped, you give them a voucher instead of giving them cash because scrappage programs that give cash payments are

basically fund raisers, and that's something [interference] make sure that the new vehicle is cleaner.

CHAIR WEISSER: Thank you, Frank.

MEMBER HISSERICH: Actually I have a question, if I may.

CHAIR WEISSER: John.

MEMBER HISSERICH: Just one quick question. The cars [interference] is that primarily a design failure or maintenance failure?

MR. BOHANAN: Well, you know, the older designs are more prone, but actually it's not as clear cut as you would think. You'd say that the older cars are high emitting to begin with, but the thing is that newer cars are so dependent upon a catalytic converter that when a catalytic converter goes south they get just as bad as the much older cars. But in essence it really is more neglect and lack of maintenance than anything else, it's not really design.

CHAIR WEISSER: Thank you. Bruce?

MEMBER HOTCHKISS: Yeah. I have a question on the upgrading, and this is something you've talked about before, upgrading cars.

MR. BOHANAN: Yes.

MEMBER HOTCHKISS: Has SEMA ever done an upgrade on somebody's old daily driver and run numbers on it what it actually would cost to do an upgrade not

only to get a '78 car to meet '78 specs but a '78 car to get cleaner than that?

MR. BOHANAN: Yeah, we've done several things adding different types of components. First of all, there's SAE papers on the Car Sound program that was done in San Diego. That was a very good program, it was very limited in scope because you're talking about taking a two-way catalyst car and converting it to a three-way catalyst car, so you're only dealing with mid-seventies to early eighties type vehicles, but they got very, very good reductions, and that was something that was subsidized by public funds. They got 60, 70 percent reductions. They were doable, the reductions lasted for like three years and they were very cost-effective.

We've done things like converting carbureted cars to fuel injection and you've seen very good reductions but they're not necessarily cost-effective.

One of the things that actually was very promising and unfortunately somebody gets promoted and everything goes out the window, was we were looking at updating Orange County sheriff's cars with newer technology catalysts. If you take a 1996 car and these are all police cars, either Capris's or Crown Vics, so you're not dealing with a lot of different varieties of vehicles.

If you take a '96 Capris and instead of just putting a brand new '96 cat on, which will give you a pretty good bang for the buck as it is, you take a later technology cat, an OBD II 2004 level cat and you put that cat on instead of a direct replacement cat, you'll get a much better emission reduction, a much more doable emission reduction on a very high mileage vehicle. So the issue of testing high mileage vehicles, you can start with things like police cars and taxicabs.

CHAIR WEISSER: I think that's instructive, and the agencies who are doing this study associated with repair points should take into account what you've said as there may be an opportunity there. And I see nods of the heads of the agency folks, so it sounds like they may be looking at it.

[interference] really clear to the audience that the committee's action authorizing me to send a letter last month in no way, shape or form is indicative of any reduction in this committee's interest in finding cost-effective emission reductions in the light duty vehicle fleet. What it is is an acknowledgment of the wealth of cost-effective emission reductions in both the diesel and the light duty fleets.

Are there any other questions? Mr. Rayburn.

MR. RAYBURN: I was interested in how short your fuse was there when Charlie's phone rang three times. I want you to come to my shop and I'll have you in the funny farm by the end of the day. Just a little observation there.

CHAIR WEISSER: A short walk, I might add.

MR. RAYBURN: Yeah, a short walk for both of us.

CAP program does about 1/3000ths percent of the fleet, and it seems like we spend an awful lot of time on 1/3000ths of the fleet. We know they're out there, there are people that are having problems. One gentleman in one of the meetings said why don't we take the money for retiring that vehicle, get them the money that is made off of the air quality certificate and get them an inexpensive car that runs good, and we're doing society a better thing. That's been brought up a couple times and I think it needs to be looked into a lot more thoroughly if we really do care. If we don't care, the CAP program is something that makes you look good and then you walk away.

Idle test. Please, three years, Rocky, get an idle test. I got a kid down at Washington High School in seventh grade that can probably do it for you in twenty minutes. It's already in the program. But you can change our program for what you want us to do on the vapor recovery part of the machine by next

year for \$400 to us. I find that just really -- we're in a technologically astute state here. Saying that these things take that long just doesn't set well with me with the level of education in computer science that we have in this state. These are program changes, these aren't making new programs, it's already in there, you're just switching it from one place to the other.

And I think it would give a great reduction. I have had cars that are brand new, '98, '99, that have failed the idle test right off the reel. Chrysler Dakotas. Trucks coming in from out of state that have three-way cats on them, '98, '99. Chrysler is not doing a recall but they are selling three-way cats very cheaply. I mean 100 bucks to the consumer and these are \$400 cats if you bought it for another car, so we do have problems there.

The aftermarket. I've got a '72 Pontiac 455 I'm rebuilding. I plan on putting an Edelbroch on it with an oxygen sensor. I want my car to run clean. Makes the engine run longer. Does good for everybody. This is things that we need to be looking at to clean the air. I see some circles going that if we took the money from CAP and bought the people new cars it would probably be cheaper to administrate and they'd have a (inaudible).

CHAIR WEISSER: Thank you. I'd have to share your sentiment in terms of the length of time it takes for government often to develop, respond, implement. Sometimes it feels if we were in World War Two we'd still be planning the D Day invasion.

The other side of that coin is that we've managed to tie government up in so many knots in terms of procedures before they're able to do anything that we have only ourselves to blame. And I see Mr. Carlisle interested in making a comment.

MR. CARLISLE: Yeah, Mr. Chairman. That two years is not government, that is the manufacturers taking that amount of time to get the software upgrade.

CHAIR WEISSER: Heavens to Mergatroid. You're telling me the private sector can't act in instantaneous fashion?

MR. CARLISLE: That's been the history during the Smog Check Program.

CHAIR WEISSER: Mr. Peters.

MR. PETERS: Mr. Chairman and committee, my name is Charlie Peters, Clean Air Performance Professionals and we represent motorists. First of all I'd like to apologize for my lack of technical ability in keeping my phone quiet. It certainly wasn't anything that was happening intentionally on my part and I apologize for that.

CHAIR WEISSER: Thank you, Charlie.

MR. PETERS: Two meetings ago you had other things that required you to be someplace else, Mr. Chairman, and there was a presentation of the Air Resources Board in the afternoon session, page 114, 119, something like that, the start of the afternoon session, there was questions allowed from the audience in which I participated. The question of particular data from the Air Resources Board and whether or not that data was available and what it took to get it, MR. Carlock who is in charge of modeling for the State of California, indicated the data was available and he was leaving on a plane by three and would call that week with that data for the committee and myself.

I have talked to Mr. Carlock on the phone.

CHAIR WEISSER: Excuse me, is this leading to a discussion of the issue at hand, Charlie?

MR. PETERS: You said that the issue of cut points.

CHAIR WEISSER: Is this on cut points?

MR. PETERS: Absolutely.

CHAIR WEISSER: Very good, please proceed.

MR. PETERS: And the issue of cut points and we have a marginal car and whether or not it gets fixed. The issue is whether or not what's broken got fixed or we're playing a little game of meeting a tailpipe emissions test, and we're specifically

addressing the issue of his data as to determining the fault before the cars are sent out and analyzing whether or not they got fixed, which I indicated in my testimony to the committee when you were not here, Mr. Chairman, that that was very important data that the committee should have and have to be able to consider, and that data has not been forthcoming. I've shared that issue with Mr. Amlin at the bureau, with Mr. Carlisle of the committee staff, and it's on the testimony indicating that that data is available to the committee, but at this point we have a situation where it's not forthcoming because the committee hasn't asked for it. I certainly have asked for it. I haven't demanded it under freedom of information or that sort of thing, but we're playing a little game here of not getting this information forward at this point and I think it's critically important to your question of whether or not the marginal cars get fixed. What's wrong with cars that are very specific if we're getting what's broken fixed, the car complies.

We're dealing with the issue of evaluation of tailpipe emissions rather than the fault repair, and I believe that that policy of seeing if what's broken in fact gets fixed and that car will meet basically factory specification rather than the very easy to pass standards of the program.

CHAIR WEISSER: Thank you, Mr. Peters.

Rocky, do you have anything to say that might inform the committee regarding the data that Mr. Peters made reference to?

MR. CARLISLE: No. The request was not made to the committee per se, but Mr. Carlock did reply that it would be available. Now I don't know if they require it in writing or what the status of that is, nor do I know what date it was requested.

MR. ARMSTRONG: He said, 'Call me early next week.'

MR. CARLISLE: Correct. I wasn't a part of that conversation if he did call.

CHAIR WEISSER: Mr. DeCota.

MEMBER DECOTA: I think (inaudible) help those that request information to follow through, and I think it would be appropriate, Mr. Chairman, if we sent a letter requesting that that information be supplied.

CHAIR WEISSER: Make it so, Mr. Carlisle.

Now we're going to proceed to the back of the room and I saw three hands raised and those will be the only three we're going to hear from before our lunch break. We'll start with Peter. And please identify yourself again for the record.

MR. JIZRAWI: Peter Jizrawi. Very interesting. You asked a question when I brought up

the question about the CAP and [interference] to run the test, to diagnose it and to retest it is a two-hour labor overall, plus the repairs of course.

Well, I had an incident where a vehicle needed a carburetor. It was a 2200, it's about an \$800 carburetor plus your two-hour diagnosing and you're at \$1,000 right there, right?

Well, all they did is of course they paid me the \$150, so not one repair done on it, nothing touched. It needs a carburetor because that's the main problem with the car, right, the CO ten percent, and they let it go. Ten percent, car referee gets certified and it's on the road at ten percent.

Now, here's another data we need to collect.

CHAIR WEISSER: Excuse me. As I understand the program, when a determination is made that it's over the 500 bucks or whatever, they get one two-year waiver that is non-repeatable. In other words, that car, a gross polluter is not repaired the second time around they cannot register that car to legally operate in California. Is that correct?

MR. CARLISLE: Yes.

CHAIR WEISSER: Thank you. Please continue.

MR. JIZRAWI: That is correct 100 percent, because it happened with me with four cars alone last month.

Okay. I wanted to say one more thing. Who collects data, the whole committee or the gentleman does, who collects data?

CHAIR WEISSER: Well, there's more people that you can shake a stick at.

MR. JIZRAWI: Right. Well, here's an interesting data that we need to collect. Okay. Now they said earlier she came up 431 in the first quarter cars were let go, correct?

CHAIR WEISSER: Yeah.

MR. JIZRAWI: Okay. Now we need to collect data on how much emissions were on them.

CHAIR WEISSER: That's been requested.

MR. JIZRAWI: Okay. So what we need to do that now.

As far as the repairs on the vehicle, I mean we understand that there's low income people out there that can't afford to do their vehicle, that is a fact. We do feel with them, of course. But why don't we set a program like somebody said earlier, a program for example that would benefit the state and benefit them in a sense like this.

Say the repair is \$900, okay? Do some kind of a loan over the top of \$500. Let the state own that vehicle like a pink slip, and then at that time the vehicle would be paid off, then it goes to the rightful owner, but before the vehicle is done

repairing and spend \$1500 on it, get the vehicle inspected, make sure it's safe, make sure it's not junk, make sure the brakes are okay, make sure the body's not falling apart, make sure the interior is okay, the car's not absolutely junk.

Because I do get those cars where they're actually totally junk. We do repair them and yet they're on the road. All I'm saying is there's got to be a way to do that program. Just because the way we try to figure out to help the housing people for housing, why don't we figure a way a program to help the people with these kinds of situations too?

CHAIR WEISSER: Thank you, though I'm not sure we've effectively dealt with housing or cars, frankly.

MEMBER HOTCHKISS: Mr. Chairman?

CHAIR WEISSER: Bruce?

MEMBER HOTCHKISS: His comments just made me wonder, if there's 431 cars that got the waiver, is that just CAP vehicles or is that all vehicle (inaudible). If it's just CAP, I'd like to know exactly how many cars (inaudible) and what the tons per day was.

CHAIR WEISSER: Rocky, are you getting this, things the committee is interested in?

MR. CARLISLE: Yeah, I am. I suspect on the Internet, however, that's the executive summary I

think she was referring to and I think it's all waivers.

CHAIR WEISSER: Well, that's an important piece of information.

Tyrone and then we'll get to Mr. Armstrong.

MEMBER BUCKLEY: I was actually thinking the same thing that the person from the public mentioned and I wonder if there are other low income programs across the state, for instance, or even nationally, for instance, if you can't pay your taxes on time the government sets up where you can pay it back, and I don't know but I'm learning what exactly come under this committee's purview, but I wonder if we could explore other options that low income assistance programs are taking.

CHAIR WEISSER: The subcommittee that you're working on seems to me to be a perfect opportunity to initiate those sorts of questions.

MR. ARMSTRONG: Larry Armstrong. I'd just like to point out that it's common sense that the question of the car that barely fails and the repairs, that question remains practically no matter where you set the cut points, that will always be the same question. It's kind of like basketball. In basketball they give you two points if you get it in the basket and if you get it damn close you don't get any.

Also, I've never really had this answered, but the statutes regarding the implementation of the Smog Check Program fall under purview of the Bureau of Automotive Repair. When you ask a question the Air Resources Board jumps up and starts answering your questions, but I would like to see this committee answer that question because the statute specifically says that the Bureau of Automotive Repair is in charge of the implementation of the Smog Check Program.

As long as Mr. DeCota brought it up, the issue of information, I think you folks have been supplied a copy of the letter that I sent to the Bureau of Automotive Repair asking for information on what vehicles are directed to test-only. I can understand the reluctance of all the regulatory community to not want that information out. I spoke to someone yesterday who said that they had asked and were told that that was private information, that that information was not going to be given out.

I'm going to tell you folks that the letter that I received, if you read the letter, and I've provided -- I have a couple of copies of the information that came along behind it.

CHAIR WEISSER: Are you making reference to a July 13th letter?

MR. ARMSTRONG: Yes, sir.

CHAIR WEISSER: Thank you.

MR. ARMSTRONG: I will tell you that in his other life Mr. Carlisle was somehow in charge of the test-only vehicles and over the phone he gave me information on how many vehicles were sent directly to test-only out of various zip codes in Fresno, so the concept that this information is not available, nobody knows, and if it's not available to me when I requested it I'm assuming that it's not going to be available to you folks.

I've testified here that the Senate Transportation Committee assigned a factor of one-half of the directed vehicles in the mature enhanced area were being directed to test-only and -

CHAIR WEISSER: Thank you, Larry. You'll have to conclude your remarks later.

Chris.

MR. ERVINE: Chris Ervine, Coalition of State Test-and-Repair Stations. Rocky made a comment earlier about implementing an idle test as part of the smog program, and the two years was not because of BAR but because of industry. I was a data set site in BAR 97 and I started looking at BAR 97 as far back as '95, and at that time BAR was talking about the dyno setup was going to cost \$33,000.

The program did not get implemented until '98, and it wasn't because of industry, it was because of BAR changing their mind and changing the specs on

the equipment. And the equipment ultimately ended up costing us about \$45,000.

We have the same situation with the evaporative emission control testing. Two years ago I met with Rocky and Pat Dorais, then chief of BAR, and we talked about the evap tester. At that point it was \$800 and I requested that they implement a smoke machine as part of the equipment for determining where the leaks are. We still do not have the smoke machine as part of the equipment and the proposed cost is somewhere from \$2200 to \$3000, and this has been over two year program.

MR. CARLISLE: Chris, it takes the equipment manufacturers that long to get a software change submitted to BAR and finally approved.

MR. ERVINE: Okay. Again, we're submitting to BAR and final approval, but the problem that we have is that BAR keeps changing the rules.

MR. CARLISLE: Not with software. A simple request that goes to the manufacturers is not always simple but certainly software upgrade requests and by the time everything gets done all three manufacturers it takes up to two years to implement it. That's been the history anyway. It's got nothing to do with the automotive repair industry.

MR. ERVINE: The only thing I can say is that as a data test site I saw many software changes before the final software was adopted.

CHAIR WEISSER: Thank you. Dennis.

MEMBER DECOTA: Chris, can you with your BAR 97 machine currently do an idle test?

MR. ERVINE: Yes. The software is in the program.

MEMBER DECOTA: Chris, can you take and perform an idle test on your BAR 97 smog machine?

MR. ERVINE: Yes, and in many cases the machine will direct us to do a two-speed idle test.

MEMBER DECOTA: Well, I&M 240 is a different regime within the machine.

CHAIR WEISSER: Can they do an idle test with an I&M 240 machine?

MEMBER DECOTA: Is your BAR 97 machine an I&M 240 machine, Chris?

MR. ERVINE: No, it is not.

MEMBER DECOTA: Okay.

CHAIR WEISSER: Okay. Mr. Armstrong, I think you had one more comment you wanted to finish your remarks up, and then we'll have Mr. Carlisle and then we'll eat. Did you have something further, Mr. Armstrong?

MR. ARMSTRONG: You cannot do an idle test -

CHAIR WEISSER: Could you step up to the microphone?

MR. ARMSTRONG: Mr. DeCota's question is a unintentional trick question. You can use the equipment to perform a idle test if the state calls for a basic test on the test. If you're doing a dynamometer test, you cannot do an idle test as part of the test.

CHAIR WEISSER: On which equipment?

MR. ARMSTRONG: Well, it's the same equipment, but it's what you're asking the equipment to do at that given time.

MEMBER DECOTA: But it has the capability to perform the idle test, does it not?

MR. ARMSTRONG: If a vehicle comes in and the state requires what they call a basic test, which is the good old test that we still should have in the Bay Area, the equipment then requires an idle test as part of that test with the same standup smog machine that when you're doing a dynamometer enhanced test does not perform an idle test.

MEMBER DECOTA: I'm going to continue here a second, sorry. So, what you're telling me is that if a vehicle was directed to you for a basic test, you could perform an idle test on that vehicle; is that not correct?

MR. ARMSTRONG: I'm not licensed by the state, but the trick answer to that one is no, I couldn't.

MEMBER DECOTA: I don't want to talk to you any more, Larry.

MR. ARMSTRONG: Ask your question again, I'm sorry.

MEMBER DECOTA: What I'm trying to do is educate the committee, okay, to the fact that your equipment would perform a two-speed idle test if it's slightly modified and maybe if it simply was DMV directed because of make, model and engine family that it be performed also an idle test at least in the interim in order to take the performance.

I think the idle test has a great deal of benefit. I've stated that. This is my assignment on what we're doing here and I need to make sure that industry is in concert with what I'm trying to get the committee to look at, which is a recommendation that the idle test is needed.

MR. ARMSTRONG: Well, if I may, two to three years ago Mr. Amlin turned around to me one time in an I&M Review Committee meeting and said, 'Do you really want an idle test?' And I said, yeah, if you want to get it done properly you've got to have an idle test. An idle test shows that there's something broken in that car that's not working properly and it's not the

idle [interference] that can either ruin parts or give you emission problems and it ought to get done and it never should have been eliminated.

CHAIR WEISSER: Thank you.

MR. ARMSTRONG: I hope I answered your question.

CHAIR WEISSER: Quick comment from Mr. Lafferty. Rocky, did you have your microphone up?

MR. CARLISLE: I just want to respond to the concern that —

CHAIR WEISSER: Fine. We'll hear Mr. Lafferty and then we'll listen to you.

MR. LAFFERTY: Michael Lafferty from the Bureau of Automotive Repair. Notwithstanding Rocky's inquiry later on after this meeting I would like to make a comment briefly about the waiver issues.

There's waivers which is called a repair cost waiver and then there is an economic hardship extension. These two types of situations exist within the Smog Check Program and they somewhat complement the CAP program in certain ways.

Specifically, the CAP program is designed to assist people through the Smog Check Program and not designed to help people rebuild their engines. For many reasons. One of them is most stations that we contract with, that's not their normal service that

they provide, engine rebuild. They're in the Smog Check business.

But notwithstanding that, consumers come into the program and oftentimes we do a diagnosis and determine that the engine is not sound and it will not support a Smog Check repair because mechanical problems. Under those conditions consumers have choices, and those choices today are, if they're low income they could apply for an economic hardship extension, which means that they would pay the first 250. A single repair would cost \$250. If we determine that additional repairs are needed but it went beyond the \$550 for example, there's no point in paying for that if the consumer doesn't want to pay the other money, or if there is no mechanically sound engine. So rather than waste money, consumers are given this choice through the statutory process to get a one-time exemption.

CHAIR WEISSER: What's the choice, the choice to get a one-time exemption or?

MR. LAFFERTY: Or the consumer has the choice to go ahead and pay for those repairs themselves. Sometime hopefully in the near future they'll have another choice will be vehicle scrappage. Currently right now they don't have that choice, but we're hoping that they'll have that choice soon.

The other one is a repair cost waiver. If they're low income they have to show that they're low income and they can get that up to 250. If they're not low income then they have to spend up to \$500, and hopefully those repairs will bring the emissions down a little bit lower than before they came into the shop.

CHAIR WEISSER: This type of assistance is available to folks that go to either test-only or test-and-repair?

MR. LAFFERTY: Yes.

CHAIR WEISSER: Directed vehicles, non-directed vehicles?

MR. LAFFERTY: Yes.

CHAIR WEISSER: Does the income test apply to everybody even cars – in other words, in order to get consumer assistance you'd have to be, if you were a directed vehicle you'd have to be a low income person?

MR. LAFFERTY: No. I'm sure the committee knows that if you are test-only directed you don't have to be low income.

CHAIR WEISSER: So I want to just put this on the record.

MEMBER LAMARE: But that does not relate to economic hardship.

MR. LAFFERTY: Yeah, yeah.

CHAIR WEISSER: I will only say that by funds flowing out of that account are people that don't need assistance lessen the amount of money (inaudible).

MR. LAFFERTY: I think the point that I'm trying to bring across is that the goal of the CAP program is to bring in the people to try to help them to try to lower emissions.

CHAIR WEISSER: Right.

MR. LAFFERTY: And very few people get repair cost waivers. Out of 2.9 million vehicles that were tested in the last quarter, very few people got a repair cost waiver.

CHAIR WEISSER: Yeah, you're saying a maximum of 1600 people, some subset of 1600 people a year are getting those, so it's fairly low.

MR. LAFFERTY: 1600 to 2400 annually, right.

CHAIR WEISSER: Quick, who would like to stand between these committee members and lunch? I think it's Mr. DeCota. Dennis, did you have something you'd like to add?

MEMBER DECOTA: I have one small question and that is for the gentleman from BAR. Am I correct that in Japan engines are replaced every 30,000 miles by government mandate?

CHAIR WEISSER: Once again Mr. DeCota is mixing up facts and fantasy. Is there someone who can

answer the question? [interference] you virtually have to rebuild every major component of a car.

MEMBER DECOTA: (Inaudible) every 30,000 miles or five years. But the point that I'm trying to make is simply this. Wouldn't it be great if we could take those that were financially challenged but had tighter motors and pretty good vehicles and have the ability to replace that motor very cost effectively, which we can do by buying those mandatory replacement engines, which are very popular today for foreign vehicles, and be able to help not only the consumer with his emission issues but also probably with mileage and many other things. That would be a vision that I think we could take on someday.

CHAIR WEISSER: What a creative kind of interesting concept, and one that I hope you pursue as part of the subcommittee. That sounds interesting.

Folks, we can and we will go on for hours, but I'm wondering if now, 12:10, does the committee want to take a break now? I see people nodding their head vigorously. We'll give you an opportunity to chat with us again following lunch. It's 12:13. We will reassemble at 1:30. Does that work, 1:30? Okay. And Lynn knows all the great eating places nearby. So we'll see you at 1:30, thank you.

(Noon Recess)

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AFTERNOON SESSION

CHAIR WEISSER: Rocky, do you know if the tape is on? Thank you. I hope everyone had a satisfying lunch. I want to lay out what I would like to propose we do this afternoon and maybe three or four steps.

The first is I would like to invite the members of the committee working on subcommittees to share with the full committee any of the information or findings or interim indications that they have as to how their work is going, [interference] timing of their work and when they think that work might be sufficiently developed in order to share issues with this full committee.

The third is to look at – review how we're going to try to put together this report and entertain perhaps an option for being able to produce the report perhaps on a rolling fashion. In other words, identifying items where we could quickly review, come to agreement on and submit that as a report, as an interim report. There may be things in the ARB report and the individual committee work that would be desirable to share as soon as possible, allowing for follow-up reports that will cover issues that will need more time and development.

And then the last to talk a little bit about our meeting schedule. Is that approach to these of

our time this afternoon satisfactory to committee members? Okay.

So, the first step on that little outline would be for me to ask if there's anything that any of the subcommittees would like to report on some of their initial work, just to share some of the things that they've found out in their investigation so far. Perhaps just to kick things off and get things rolling, I should give a little report on one of the work groups that I'm involved in. Here I am frantically searching for the missing (inaudible). I know that they were passed to me. Bingo.

Let me ask a question, Rocky. This workup of subcommittees, is that shared also with the public?

MR. CARLISLE: It's on the website.

CHAIR WEISSER: Okay. It would be a good idea in the future to bring copies of this so we can have ready for folks.

The work group that I want to give a brief report on is the one that is supposed to review and comment on the BAR budget, and I should clarify that to some extent this working group is composed of myself and Paul Arney. The direction that we received in our early discussions on the scope of work for this group is less focused on the BAR budget in terms of how many personnel years are going here or there and or even their budget process.

My interest and think that of Paul Arney's interest was really to kind of follow the money a little bit, find out what's going on in terms of the public receipts that are received and how much of it is going to BAR in support of the BAR operation in the Department of Consumer Affairs agency and other uses of these monies that have been collected ostensibly for the Smog Check Program. And thanks to the good legwork of Rocky Carlisle, Paul and I received quite a bit of information, some of which was actually decipherable and understandable, on the BAR budget process and where money seems to be going.

And we also arranged for a couple or conference call meetings that lasted each a couple of hours with staff from both the Department of Consumer Affairs and BAR, so that we could ask questions associated with the funding and accounting of revenues received. Let me just kind of summarize some of the things that we found and then invite you to suggest to me other issues that you think this subcommittee of Paul and I might want to explore.

[interference]. I love these acronyms. The (inaudible) account has over the past two fiscal years loaned \$100 million and \$14 million respectively to the general fund, so a total of \$114 million that have been collected through the Smog Check Program has been loaned.

Now that loan has a couple pretty interesting aspects to it that we should be aware of. The first is that they're now required by state statute to pay interest. That interest is calculated using the return rate on the state pool surplus money investment account or something like that. I'm sure Randy remembers this, because I remember when Randy was at the Business, Transportation and Housing Agency and I was at Caltrans that we were regularly getting our pockets picked to flow money into the full money investment account with no interest. Well, now we at least get some interest.

The Legislature over the past several years as the state's budget situation has been dicey became very much aware of the payback issues associated with these loans and passed some statutes to try to provide some protection, but it's noteworthy to point out that there is no specific repaying datebook for these loans. The loan is not made with a specific understanding that it's going to get paid back in 2006 or 2010 or 2020.

However, the statute also provides that if and when the agency needs the money, needs the money, that the funds will be repaid. Now, how does this word 'need' come into play?

Apparently, the money can be requested for one of two reasons. The first is if there is a

specific need based upon a cashflow analysis that's done by the Department of Consumer Affairs and sent through the State Consumer Services Agency and is reviewed by Department of Finance, and then it goes to the Joint Legislative Budget Committee, a notification letter goes to them, that shows that the normal spending operations of the agency under existing statute requires that some of that money be repaid. This would, for instance, take care of normal program growth. If you need money because your program had grown to meet the demands of the existing statute, you then would go through this process in order to capitalize the money getting repaid.

The second issue – or the third, I should say. You have first cashflow, second normal program growth, that is through the normal budget change proposal process. The third is if a statutory change comes into effect that adds new demands onto the program and you would make a claim that you need these monies that have been loaned in order to meet the requirements of the new statute.

And then the fourth and most interesting one is that the law specifically provides that these monies shall be repaid before asking for a fee increase of one sort or another.

Other loans we explored and found out that there was other monies that had been siphoned off from

the program, there has been a \$200,000 loan to the Athletic Commission under Control section 14.00 which handles short-term loans, loans of 18 months or less. The bottom line of that is that the Athletic Commission is gearing up for new responsibilities. They have a new key program, but they needed transition funding until the fee kicks into account, so they have gotten this \$200,000 loan that will be getting repaid, once again with interest, back into the system, so it's short-term.

And then the last loan that I found was \$93,000 plus or minus called the Natural Pathic Bureau, and I think these are the folks who are dealing with homeopathic medicines and whatnot. Once again, this is limited to an 18-month period.

Bottom line is that at one level the funds are protected. In other words, the program has called on these funds if needed, that the monies have been accounted for insofar as Paul and I could determine fairly precisely – nobody's pulling the wool over anybody's eyes that I could see – and that they will be repaid with interest, but when they are repaid is unclear, that's up to the vagaries of the system.

The 2003/4 fund balance of the program is \$689,000, which a very modest amount. I imagine that every nickle it seems has benefit put over to the loan to help the general fund through these very difficult

budget times. That's on a basis of about \$123 million in revenue, including Smog Check. There's \$93 million for the (inaudible) and \$30 million carryover.

Rocky, is there anything you'd want to add to this little accounting of whether or not the monies are tracked and going into and out of the various accounts?

MR. CARLISLE: No, I think that's accurate. I think the only thing people may not understand is those other funds of \$200,000 and \$93,000 is seed money for those new boards.

CHAIR WEISSER: And that will get repaid in 18 months.

Jude, did you have your -

MEMBER LAMARE: No.

CHAIR WEISSER: The other thing that we've spent considerable amount of time looking at were the pro-rata charges that are charged to BAR by DCA and State Consumer Affairs Agency and other state agencies as part of their overhead assessment, and this is just shy of shining a light on whether or not BAR was being used frankly as a cash cow to support non-related programs.

We went through a large variety of data sources to identify how for every single pro-rata charge that is made to BAR, who's making that charge and on what basis those charges are being made. And

I'm pleased to report that every single rationale for how these pro-rata charges are calculated, be it for data processing services or legal services or whatnot, seems to be pretty rational. I mean, it's based upon the number of computer terminals or the number of websites or the amount of legal services rendered. None of it seems to be arbitrary, all of them seem to be consistent with the Department of Finance guidelines which we have also reviewed, and bottom line is I don't have any giant red flags to report to the committee or to the public. As best so far that we can determine, everything seems to be playing according to Hoyt.

So with that, what I'd like to do is open it up to questions from the members of the panel and then to the public as to whether there are other specific issues that you think in the context of this subcommittee that we should be pursuing or whether you're satisfied with the information that I've given you at this time which we will write up in some sort of more cogent presentation. So are there any comments or questions from the committee members? Jeffrey.

MEMBER WILLIAMS: In this mechanism how would (inaudible).

CHAIR WEISSER: As I understand it, the way that would occur is that the bureau upon coming to its

own conclusion that it needed to have an expanded program either in terms of personnel years which needed budgetary support and authorization for establishment and filling of new positions, or new equipment, new facilities, whatever, would go through the normal state budgeting process [interference] at DCA and that are in turn passed on the State and Consumer Services Agency for their review, that are in turn passed on to the Department of Finance for their review, each review being based principally on the efficacy of the proposal. In other words, is this something that these people doing the reviews think is a good idea for State of California and the people.

Ultimately, if it goes through that process it will be put into the Governor's budget and presented and go through the normal legislative budget review process. Upon approval and appropriation, at that point in time you'd have a call on the loaned number.

John.

MEMBER HISSERICH: How much of the budget goes to the CAP program? We've heard suggestions and proposals and ideas about how they might make that more effective. I don't know how much is currently devoted to it and it would be interesting to know how much more should be devoted to it.

CHAIR WEISSER: I have twelve pages here of breakdown of the budget, but I'm sure Mike Lafferty could answer this a lot faster than I could in going through the lines on each of the budget papers. I will say that I have a two-word answer to your question, and that two words is not enough.

Mike?

MR. LAFFERTY: Mike Lafferty from the CAP program. The CAP program receives currently about \$23 million annually that is put into the account and appropriates or is allowed to use approximately \$20.8 million, and those dollars are received from the smog abatement fee schedule.

CHAIR WEISSER: You have 20 million bucks that's available for consumer assistance, and that's assistance in both the repair program and also in testing?

MR. LAFFERTY: The accounts are split up into three accounts, vehicle assistance, retirement, personal services, and then what most state agencies call OE&E, office equipment and expenses.

CHAIR WEISSER: Has that been sufficient to meet the demand for repairs, or have there been consumer who qualify under the income assistance program who are being turned away?

MR. LAFFERTY: No one has been turned away, but the repair assistance for the first time last

fiscal year ending June 30th essentially spent most of the money that it was appropriated for repair assistance. It came within about three percent of budget, so repair assistance is growing in terms of consumer demand.

CHAIR WEISSER: Would you give us an indication as to how much of that budget is spent on public outreach to ensure consumers are aware of this program?

MR. LAFFERTY: The consumer assistance program for CAP, CAP's budget does not have a specific line item for outreach, although the Bureau of Automotive Repair does and through normal (inaudible) that they would normally do about Smog Check, CAP is part of that. I happen not to know exactly what that budget is at the moment, that's a BAR question, but CAP is almost always included in any public outreach that includes Smog Check in general.

CHAIR WEISSER: Okay. Thanks.

MEMBER HISSERICH: I just have one follow-up to that. Roughly how many cars are retiring early?

MR. LAFFERTY: Currently the vehicle retirement program is suspended, although if you go back to fiscal year 2000/2001, that program retired slightly more than 19,000 vehicles at \$1,000 a vehicle, and the demand for it at that time was even greater.

MEMBER HISSERICH: And we heard there's about 1600 or so cars annually that -

MR. LAFFERTY: These are vehicles that are more likely not to fall under the scope of CAP. As I mentioned earlier, these are cars that have bad engines and it needs a new engine.

MEMBER HISSERICH: Right.

MR. LAFFERTY: And they're getting a one-time exemption. Even though it's two years, it's a one biennial cycle.

MEMBER HISSERICH: But that's not part of the dollar expenditures currently.

MR. LAFFERTY: No. What the CAP program tries to do is we try to spend a minimal amount of money in a comprehensive diagnosis, and we try to learn what exactly all the problems are with the car, so that every car that comes into CAP we can make an informed decision about can we fix this car so we don't spend money on a car that's not going to be effectively repaired. So we spend a minimal amount of money to find out that, hey, this car does have a bad engine, so we'll move things along and get waivers. It's a minimal amount. Again, in this quarter it was down to a couple of hundred compared to 2.9 million cars that were tested.

MEMBER HISSERICH: Okay. I just wondered how (inaudible), and sometimes you think for \$20

million you could give them all chits for a cab or something that would take the car off the road.

MR. LAFFERTY: Well, again, for \$12 million on repair assistance, which is what we spent last fiscal year, we repaired approximately almost 36,000 cars.

CHAIR WEISSER: 36,000 out of how many million would go through a normal one-year of biennial process?

MR. LAFFERTY: I don't have the data in front of me so I can't answer the question because what you have to look at is how many vehicles got tested. Of those, how many failed. Of those, how many were repaired with minimal amount of dollars. No one would come into a program if the repair was \$50 and their CO-payment was \$20. I mean, the convenience factor dictates it. There's certain factors that you have to look at to arrive at the bottom number and I don't have that in front of me today.

MEMBER HISSERICH: Thank you.

CHAIR WEISSER: Dennis.

MEMBER DECOTA: Did I understand you correctly when you stated that out of 114 million there could be no increase in fees until that was repaid?

CHAIR WEISSER: No, that's not what I said. What I said is that, as it's been reported to me, the

statute requires consideration of using the repayment in lieu or before of going for a fee increase.

Is that, Rocky, about right? I think it's a protection put in by the Legislature to protect the public from unnecessary fee increases from one program in order to help another program. I think it provides public protection.

So I guess my question, and we have a subcommittee of course that's working on the CAP program, and some of the questions that were just brought up I'm hoping that committee is going to be evaluating both in terms of the outreach to the resources and how it's working.

But are there other aspects of the budgetary question that either Paul or I could look at? I don't see anybody saying yeah.

Now I'll ask the members of the public that same question or for any comments they might have had on the preceding fifteen minute discussion. We'll start with Peter in the back.

MR. JIZRAWI: I'm Peter again. I just wanted to mention since I'm in the CAP situation, what seems to me happening is, okay, at first the service that the CAP provides (inaudible) for example.

Well, what I found out is their services, customers, I - I don't know if anybody here is CAP, but you call that number, no answer ever. It's always

busy, busy, busy, busy. Well, here's the answer that I got from one of the guys, CAP members. 'If [interference] and I'm sure the gentleman would agree with me there, you never could get ahold of no one. And if you go get ahold of someone, you're online for five hours if you're able to get through, but the line 99 percent of the time is sincerely busy. Customers get frustrated, and I say to them, you know what, I'm not to blame why I can't get an answer. If I have to wait two or three days, I can't get an answer because I can't talk so I faxed to them the question, and that takes awhile. So we have issues also trying to communicate with CAP.

CHAIR WEISSER: The service level is not as —

MR. JIZRAWI: Very down. I mean really, really down in the dumps, and I'm this is a true statement, and I'd even give you customers who will tell you that.

CHAIR WEISSER: Well, that's something that I would suspect this subcommittee might want to look into. I'm tempted to see if there's any response that anyone from the agencies would like to make. Particularly knowing that the agencies have been subjected to both hiring freezes and turnover, I wouldn't be surprised whatsoever that the staff

available to the program has been substantially reduced.

Michael, is there any comment that you would like to make on this?

MR. LAFFERTY: There was many state departments were asked last year to prepare a reduction, I think it was a ten or twelve percent reduction, and the consumer assistance program like many other state agencies did participate in a budget reduction and we did have a reduction of temp help staff, and at that time we were required to meet that reduction and we did have to essentially lay off temp help staff.

CHAIR WEISSER: Excuse me. This is not your normal attrition process, you had to go through a lay-off process?

MR. LAFFERTY: Well, these were temp help.

CHAIR WEISSER: I think every state agency had to go through all temporary employees.

MR. LAFFERTY: Yeah. We've had other budget reductions, but the most recent one was this and it was temp help staff that was affected.

CHAIR WEISSER: Thank you. Tyrone?

MEMBER BUCKLEY: I have a question and I don't know if this is for Mr. Lafferty. I was wondering how many people do staff the CAP program.

MR. LAFFERTY: In the consumer assistance program we have approximately twenty-nine staff in the headquarters department, and then we staff approximately nine people in the field offices. The people in the headquarters department process applications, answer phones, do all the logistics to determine eligibility, send out letters.

The staff in the field monitor the Gold Shield stations that participate and audit some stations on a quarterly basis, follow up on consumer complaints as it relates to CAP, those types of issues.

CHAIR WEISSER: Have you been noticing a lot of complaints about just the intake portion of the work, people calling and getting frustrated because they're not getting their phones answered?

MR. LAFFERTY: I have to acknowledge the comments are true, yes. It is unfortunate. It is part of the economic times that we face right now and I suspect that if you were to call CAP that we do our very best, but it has been better serviced in the past and we hope to improve that service.

CHAIR WEISSER: Well, hold it. I just thought that with \$114 million of money to support this program that's on loan and it's supposed to be available (inaudible).

MR. LAFFERTY: Well, I can't answer that question, I'm not knowledgeable about what you spoke about earlier.

CHAIR WEISSER: We'll start from the front to back, gentlemen.

MR. TROOP: I'm John Troop. I own a CAP station, a Gold Shield shop, and we recently got into the program. Just as he was speaking about not being able to get through, I got a private line to call. I won't mention any names, but he asked me to actually call upon our first CAP so that he could go through the paperwork.

CHAIR WEISSER: It's like a training thing.

MR. TROOP: Yeah. I did [interference] on the first CAP. That was at about 10:15 in the morning. He had not called me back. I called him at 3:30 again and spoke with him very briefly as he was in some kind of a meeting. He said that someone would be back in touch with me. Customer car is still sitting there.

They did not call me back that day. They did not call me back the next day. I called them again, I couldn't get through on the line, the normal line. I couldn't get to him on his line. I finally did get in touch with someone. The customer's car had sat there for three days.

That's really hard to discuss. That customer, especially someone who might be low income trying to use the car to go to work, not even being able to have their car back. And I've run into the situation three times.

CHAIR WEISSER: How many total times have you needed to get in contact?

MR. TROOP: Three times.

CHAIR WEISSER: Thank you. Tyrone?

MEMBER BUCKLEY: May I ask a follow-up question?

MR. TROOP: Yes.

MEMBER BUCKLEY: So did you receive any initial training on how to do it?

MR. TROOP: Yes, but the initial training was given to us prior to us receiving the license in the mail. It was probably seven weeks prior. And then by the time we got the license I had already been on the Gold Shield program for almost three months. We were not aware of it. Then when we received the training it was about six to seven weeks before we got the license, and then we were able to start. Well, now the training's kind of fallen behind and I don't remember it all.

CHAIR WEISSER: Okay. I want to ask if you can to have the comments right now as best we can focus in on budget issues. We're going to move

forward on this side and then to your side. We'll have Larry.

MR. ARMSTRONG: Yes, thank you, Mr. Chairman. My name again is Larry Armstrong. Before I go, what you should have asked this gentleman is how long the car would have been there had he just had that as a regular customer's car and how long it would have been gone before he ever got connected. I believe in people taking care of themselves rather than the government.

Mr. Chairman, I would have much rather you spent your investigative time on budgets analyzing where certificate money gets spent, because that's money that is specifically designed to manage the Smog Check Program and provide proper regulatory oversight, and I didn't hear you mention that at all. And I will tell you that over the years we have never been able to get an answer of where that money gets spent.

I think I've testified before this committee enough particular times to where you probably understand that I believe that there are tremendous gains that could be had by responsible pro-active monitoring of the system that we've got out there that works on 10 million cars a year, not 36,000 but 10 million cars a year, and I believe that that certificate money was spent not punishing operators per se, but pro-actively attempting to assist, there

could be a lot of things done that could be a great help.

As a historian I will tell you that I'm looking at the group here and possibly Mr. DeCota was in the room, but when they were doing the original CAP thing, and I forget the letters were, their regulators stated that they would need about a 40 percent oversight fee going against money spent, so I would think you need to ask the question when you're asking how much money got spent, you want to ask how much money got spent repairing cars and how much of that money got spent providing oversight over that money that was spent for cars, because 40 I didn't hear that and I don't know how (inaudible).

CHAIR WEISSER: Mr. Peters.

MR. PETERS: Mr. Chairman and committee, my name is Charlie Peters, I'm here representing Clean Air Performance Professionals which is a consortium of motorists. I've provided to you today a packet of information and the first page of that talks about specifically the generation of money for the Bureau of Automotive Repair CAP program and saying that hundreds of millions of dollars have been removed from that budget that have gone into the general budget for other purposes and possibly benefit to motorists, or specifically benefit to emission reductions. And I characterize that as the Arnold car tax.

Hundreds of millions of dollars which are being said the purpose of which is to improve air quality in the mobile fleet involved in Smog Check which are being utilized for we're using that to evaluate body shops, we're using that to evaluate remote sensing, we're using that for besides the issues of returning hundreds of millions of dollars to go in the general fund while we may spend a dollar or two or maybe 20 million or something to fix a diesel engine somewhere at some time, pay the difference between a regular diesel replacement and an upgraded diesel replacement. Whether or not the motorist should have anything to do with that or not is really not an issue.

I perceive that if in fact CAP was appropriately in my opinion managed, audited to see if what's broken in fact gets fixed, I've petitioned you and you've responded today and I thank you for that by getting the results of the data as to whether or not what is broken is getting fixed. I think that that data will be very enlightening to the committee and provide possibly a huge opportunity to improve the support for the credibility of the Bureau of Automotive Repair, significant credibility for the legislators and the Governor I think can be had from that, so I was petitioning the committee to take into account those possibilities and to please follow up

and get that data and to see whether or not it makes any sense to the committee if there could be an opportunity there.

CHAIR WEISSER: Thank you, Mr. Peters. Len and then we'll shift forward to the left.

MR. TRIMLETT: Len Trimlett. One of the things that really frustrates a lot of people when they deal with consumer assistance program is the fact that the 800 number for consumer affairs, every time you call in it says call back during working hours. That even happens eight to five when they're supposed to be there. I think that the 800 number that would help people find their way around consumer affairs and BAR is deactivated and it's a victim of budget, and that's not a very acceptable way.

I'd also like to ask the question of BAR and CARB, how many times the pollution has been transferred to industry as a result of the pollution credits that arise from the consumer assistance program? That's scrapping cars to keep industry polluting. What's an answer?

CHAIR WEISSER: Thank you. There's a 800 number that's available now, Michael?

MR. LAFFERTY: I think they're talking about Department of Consumer Affairs.

MR. TRIMLETT: The number is 952 -

MR. LAFFERTY: That's the Department of Consumer Affairs.

CHAIR WEISSER: You have a different number and it's not an 800 number? What's the number?

MR. LAFFERTY: 866 972-2793. That's the consumer assistance program. He's talking about 800 952-5210.

MR. TRIMLETT: Yeah. That one is not operating.

MR. LAFFERTY: I can't speak for that one.

CHAIR WEISSER: 866 972-2793, is that the number? I just want to make sure I get it right. Say it again.

MR. LAFFERTY: I believe it's 1-866-272-9642.

CHAIR WEISSER: Okay, let's continue the discussion. Are there other comments? Mr. Ward. Well, I got an answer, I just want you to know. There's a voice going through the normal protocol. I'll call this another time. I just wanted to see if the number was functioning and it seems to be functioning.

Jude, do you have a question?

MEMBER LAMARE: Well, what about industry credits from the BAR scrappage program? There have never been, there are no industry credits in the BAR scrappage program.

We've kind of asked and answered, asked and answered, but we're not getting through.

Randy.

MR. WARD: Thank you, Mr. Chairman. Randy Ward, California Testing Industries Association. I had to make this my business at one point in time and I'm not sure it's still too current, but at least 24 months ago, over 50 percent of the people that called the consumer affairs 800 number hung up before they ever got any assistance. And Mr. Carlisle I think is familiar with that.

They published a statistic monthly and it's a piechart and it shows the types of calls they received, for what purpose, what bureau or commission within the Department of Consumer Affairs, but it talks about average call time and generally the statistics you would expect an operating phone number to be keeping.

Anyway, it's a disaster and I'm not sure there's any way around it. I mean, it's a money problem and there's no easy solution, so I certainly don't envy someone who has the responsibility to make it better.

One of the thoughts I had is the former deputy director of the Department of Consumer Affairs, someone you and I both know, Mr. Chairman, is extremely knowledgeable about pro-rations, and I had

heard numerous times that the pro-rated charges that other boards and commissions within the bureau pay as a percent relative to the scheme that you talked about, the Department of Finance guidelines, was woefully inadequate and that the bureau had been picking up portions of that. I don't know if it's true or not.

CHAIR WEISSER: Well, thank you for the highlight on particularly the latter part of your comments. I can tell you that we did not audit the system. In other words, we did not go through and attempt to track whether the system that they've set up to actually be followed in terms of the dollar by dollar charges. But we did review the assessment methodology and we did ask questions associated to whether or not this was being applied across the board to all the agencies within the Department of Consumer Affairs, and received answers in the affirmative, I might add.

Without the resources and time to do an actual audit to confirm what we were told was deemed true, we're going to accept what they're saying at their word. I was more concerned [interference] standards (inaudible) criminal effects in my mind.

MR. WARD: Well, I wasn't making that insinuation.

CHAIR WEISSER: I recognize that. You were merely reporting rumors or anecdotes that you had heard that frankly was a reason and rational for me wanting to chat with them to see whether or not there were abuses. At the system level I encountered nothing that I characterize as out of the ordinary. That's all I'm saying. No inference that you were making any accusations.

MR. WARD: The most significant point I wanted to make is (inaudible) the CAP station was talking about consumer problems with calling the consumer 800 number. That's a very well-known problem that I think your executive officer is particular familiar with.

CHAIR WEISSER: I think it's a reflection frankly of the sorts of things that have happened to government over a period of many years. We're dealing with an increase in population, an increase in demand for government service and a real reluctance to pay for it, and what you end up doing is -- you said a 50 percent drop-off rate, Randy, before people were answering the phone? You get the government you pay for, folks.

Jude.

MEMBER LAMARE: I guess Randy's comment that perhaps the subcommittee could look at the other bureaus and commissions that we should compare the

Bureau of Automotive Repair proportionate overhead charges with the other bureaus and committees and commissions and so on within DCA.

Now, we do know that this program has enormous consumer impact way beyond any other program in the Department of Consumer Affairs. Virtually every vehicle owner in every household in the state is affected by the Bureau of Automotive Repair, and what we're here to look at is are the consumers getting their service for the dollars spent, and I think it's really important that your subcommittee continue to look deeply at the question because of the enormous size of this program and the number of people who are affected.

CHAIR WEISSER: That's sort of what we tried to do. What we tried to do was find the methodologies for each cost center, not merely within BAR but across the board within the Department of Consumer Affairs, and then look at the methodology that was used to allocate overhead costs to them, and they seem to have, which I will put in a written report to the committee, a methodology for assignment that went across the board. They had the same standard for the Cosmetology Board as BAR as so on and so forth. That's as far as we went. We didn't go then to see how they applied that standard. We just don't have the resources frankly to do that, but I have nothing

to industry that they're not being on the up and up with that. I happened to feel better after the three or four hours of conversations that we had with them than I did beforehand, I'll put it that way.

Any further? Sir.

MR. WELSTAND: My name's Steve Welstand, I'm with Chevron Texaco. I have a question for the BAR representative. Is the 2000/2001 fiscal year scrappage (inaudible)?

MR. LAFFERTY: In 2000/2001 we retired over 19,000 vehicles through the Vehicle Retirement Program.

MR. WELSTAND: My comment is relative to CAP budget. Obviously there's a lot of process problems tightening that budget, and I would just ask you to look at another factor. (Inaudible) I haven't looked at that myself, but I understood along with [interference] process and they even make it less friendlier than that. Most of the people in this room are apprized on that.

I like the notation that we just made about the fact that this is a very serious consumer affair, but I'd also point out too that we've got (inaudible) representatives here that the SIP does not allow for budget problems. These things are supposed to work and we would certainly encourage that.

CHAIR WEISSER: What's interesting to me, Tyrone, and this is reflective of the year and a half or so that I've been working with the committee, is the high level of interest and I think disappointment with the CAP program. A lot of frustrations by the providers of the services, by the agencies and by the consumers. You have your hands full.

MEMBER BUCKLEY: I was going to ask you a question. I was wondering just for my benefit if people are trying to make my first day interesting for me.

CHAIR WEISSER: No, I think this is consistent with what we've heard throughout. Len.

MR. TRIMLETT: Len Trimlett. Just want to make a brief correction. I just tried that 800 952-5210. That is the consumer assistance number. It does work. When I tried that number probably three or four months ago it was not working, but apparently somebody got the budget back where it belongs and now it works. Thank you.

CHAIR WEISSER: Thank you. We're going to go to Mr. Hotchkiss.

MEMBER HOTCHKISS: That 800 number is the Department of Consumer Affairs 800 number and it handles a lot of different boards and bureaus. There have been a lot of complaints about that it used to be BAR's 800 number a few years ago, and then it got

shifted over to DCA. It handles a lot of different areas and that's the problem.

CHAIR WEISSER: Okay. Wow. We're going to start with you sir, I don't think we've heard from you.

MR. SAIHAGAN: Thank you. My name's Pat Saihagan. We have two shops in San Francisco. One is a Gold Shield consumer assistance program station. One thing about the test-only, and I think I can't tell anybody where to spend their money, okay, but I do see an issue when you are directed to a test-only and you have a Jaguar in my lot, okay? And I get those a lot because we're right in the Pacific Heights area with Gold Shield, okay? That consumer is eligible for up to \$500 in repairs from the state. Now, that money I think is abused. I really honestly think that way.

I'm born and raised in the City. I put myself as a consumer when I talk to my customer. Jude here mentioned consumers. I think we're missing the boat here, okay. As a consumer I have two teenage boys. They play soccer, they play baseball. I drive them to all their sports, okay? I put on 15,000 to 20,000 miles a year on the car, okay? I live in the City, okay?

Everyone's moving out of the City. They're commuting. They're putting on more miles than me, but

generally, if you drive 15,000 miles a year, in six years that's 90,000 miles. One of your program changes are saying in 90,000 miles you need your first Smog Check. Makes no sense. Okay. You're out of the warranty period, et cetera, et cetera. Okay.

The other waiver program is change of ownership, okay? If I buy a car from Mr. Bruce Hotchkiss and he Mickey Mouses whatever he wants to do, and he knows how to do it, and after four years or whatever it is I go to smog it and I cannot smog it because it's tampered with, okay, me as a consumer again, why didn't somebody tell me? We hear that from customers all the time, why didn't somebody tell me? Who is responsible? I'm sorry. [interference]

They're talented, they're knowledgeable and they really try to help you out, okay? It's hard to get ahold of them, but once you do they are super. Thank you.

CHAIR WEISSER: Dennis.

MEMBER DECOTA: Mr. Saihagan answered the question, he said they're hard to get ahold of.

Your statement with regard to you get the government you pay for, the consumer in the state in this industry loaned other portions of this government \$114 million and we'd get a lot better service if it was spent in the proper method as it was intended to

do by those people, and that's why I think your comment was not proper.

CHAIR WEISSER: I agree that the service levels certainly could have been improved had the staffing been at least maintained to the level it was before the semi-forced reductions that the CAP program apparently has been subject to. I agree with what you're saying. The answer still is that you're ending up, you know, kind of starving government of the resources that they need to do the type of job you want and then you kick them when they can't do that job, and that's what it seems to me here. You've got a system that because of shortages in one area has siphoned off money that could have been used to support this effort, because people don't want to pay taxes, but yet they still want the services. I know we disagree on this, Dennis, but if we do, you're wrong.

MR. ERVINE: Chris Ervine with STARS. We're also a CAP station. People that call in that are CAP approved, we tell them from the get-go that they need to plan on their car being at our station three to five days. The normal turnaround to get a normal car smogged and out of our shop is normally one day. If we have a problem with parts, maybe two. The main problem for this is a CAP program vehicle when we're done with it, the file will be that thick. A regular

smog, the file will be that thick. It takes my office help probably five to ten times as long to process a CAP car as it does to process a normal vehicle.

CHAIR WEISSER: Is that because of them wanting to prevent fraud or making sure that the car actually qualifies and that the person has the correct income level, or what's it due to?

MR. ERVINE: Well, initially when a car comes in we have to photocopy a number of documents: their driver's license, their registration, they have a CAP approval letter, and then we have to write the repair order.

Then once we do an initial test on the car, so now we have a smog test and that's another two pieces of paper that are added in there. Then we have the diagnostics on it and we submit that to CAP and we end up with another two or three pieces of paper. CAP may or may not approve all of the recommendations that we make for repairs, they may approve a portion of them, and then once we do those repairs then we re-test it again, and then we have to submit for any further repairs. And we may submit as many as three or four times on a CAP car to get it through, when the initial submittal included all of these things. And I understand some of the reasons for what they're doing, but it does take considerably longer to get a CAP car

through, and those are some of the things that are involved with the CAP program.

CHAIR WEISSER: Thanks. Mr. DeCota.

MEMBER DECOTA: Chris, would you be a CAP station if you had the choice today, knowing what you know?

MR. ERVINE: If I had the choice today I would not become a Smog Check station.

MEMBER DECOTA: Thank you.

CHAIR WEISSER: Is there something that's mandating that you are a Smog Check station?

MR. ERVINE: Yeah, I've spent over \$80,000 in investment.

CHAIR WEISSER: Thanks. Jude.

MEMBER LAMARE: The way it works now to get pre-approval, so there's a lot of forms flying back and forth from you and CAP.

MR. ERVINE: Yeah.

MEMBER LAMARE: Have you evaluated how it would work if it were on a voucher program with an audit on the back hand? In other words, the eligible motor vehicle owner would come to you with an approval from CAP and with a voucher for repairs and you would be subject to an audit after that was over that you had done the right thing and had not over-repaired the vehicle.

MR. ERVINE: I think that the way the CAP program is set up presently where we have to submit for specific repairs, I think it's a good idea, especially for some shops that may not be quite as technical as we are, because there is a review and the people on the other end look at it and if the problem doesn't look like what you're suggesting that's going to correct it, they may ask you to do some other tests or ask for some additional information.

The part that I do object to is submitting for multiple repairs and having CAP say, well, let's do one and then re-test it, and then let's do another one and then re-test it and do another one, because each time I have to do a repair and then re-test it, then that car goes back out and it's parked out in the lot and that technician loses 20, 30 minutes. And we're only paid two hours for diagnostics, and out of that two hours we have to do an initial Smog Check, we have to do an after repair Smog Check, and we have to do the diagnostics, so we're very limited on the amount of time that we have for diagnostics and doing this individual steps and having to keep going back and asking for authorization really hurts us.

CHAIR WEISSER: Mr. Lafferty, you had a comment that you wanted to share with us?

MR. LAFFERTY: Michael Lafferty, CAP program. I didn't want to try to address all the

concerns of people because I have no particulars about some of them, but I would say, you know, by and large the vast majority of CAP stations come into the program, they stay in the program. We get letters from stations and from consumers thanking us for their participation. I get calls from stations to thank me because our program representative helped them become a better technician, helped them repair a car.

So we have certain protocols and we could probably improve like everything else. I'm not against that, I'm always striving for improvement. But the one thing that we do take pride in is the fiduciary responsibility in spending those dollars, and I think that when cars are repaired on the back end and you then ask the question how did the car get repaired, you're left still with the fact that the money is gone. And so again, I'm open to the concept of making improvements, but we do have a fiduciary responsibility.

And so finally to say that we are working with approximately 40 stations right now on a pilot, and these stations are stations where [interference] are doing an outstanding job in CAP and we have given them the opportunity to repair a car from start to finish without calling us, and that program is becoming very successful.

We have just relaxed some of the program, you know, when they call up day in and day out and every time they ask for a repair it is right on the mark. They follow all the procedures and they know how to fix a car.

CHAIR WEISSER: I mean, every single step of the way it sounds like these constant call backs are aimed at ensuring that the program is not subject to abuse and that they're not somehow over-repairing or they're doing the kind of repairs that over time your statistics and your staff have shown to be effective in the emission reductions process.

MR. LAFFERTY: Well, actually I don't even want to comment on that because I don't know that I necessarily agree with the comments presented today in complete concept, so I think, you know, rather than (inaudible) going to the technicians on the front end and I get calls, you know, often from stations thanking me for making their technician a better technician.

CHAIR WEISSER: That's great.

MR. LAFFERTY: Thank you.

CHAIR WEISSER: Dennis.

MEMBER DECOTA: Mike, you might want to come back. Can you tell me approximately the number of CAP stations in the state right now in the enhanced areas?

MR. LAFFERTY: I can't tell you in the enhanced areas; I can tell you that there's approximately 535 Gold Shield stations statewide. I can tell you that in the year approximately 2000 there was 167, so -

MEMBER DECOTA: Are all Gold Shield stations CAP stations?

MR. LAFFERTY: Yeah.

MEMBER DECOTA: Now they are. And how long has that been in effect?

MR. LAFFERTY: Approximately 2002 I'm guessing there was a regulatory change that required all Gold Shield stations to be CAP stations.

MEMBER DECOTA: I believe you're right. In 2002 on the Gold Shield program that mandated CAP stations at that time, you say there was around 400? Is that fair?

MR. LAFFERTY: I would imagine that it's gone from 2002 when the regulation passed, from that point we've probably had about 250, so I would say we've almost doubled.

MEMBER DECOTA: Almost doubled in two years?

MR. LAFFERTY: Yeah. And I might add, very few stations leave the program because of CAP. I mean, there may be some extra steps that they have to go through, but by and large very few CAP stations voluntarily withdraw.

MEMBER DECOTA: I believe there was around 350 that initially came into the program and it's gone up to about 500, and you say that 40 of that 500, roughly almost 10 percent are in a pilot program with green lights; is that what I understand you saying? They've proven themselves to be very competent diagnosticians and they're repairing the vehicles and those people are getting the ability to go through the process without oversight; is that what I understood you to say?

MR. LAFFERTY: I wouldn't say that. There is oversight. It is a pilot, and they are given the opportunity to repair a car, but not without oversight. They have oversight.

MEMBER DECOTA: Has this been (inaudible).

MR. LAFFERTY: No, it's the pilot and we're trying to evaluate it.

MEMBER DECOTA: I understand, and I don't want to push your buttons on this. Gold Shield was piloted forever. We introduced (inaudible) through the Gold Shield program that the Legislature voted in. But yet, it kept being piloted. Now you're telling me there's another pilot we don't even know about in the industry and we can't even talk (inaudible) because nobody has shared that with us?

MR. LAFFERTY: Well, I'm telling you about it now. I mean, it isn't a secret. There's policies

that are put in place and we've asked stations to participate.

MEMBER DECOTA: I would just like to know about it so that I can publicize it to my membership.

MR. LAFFERTY: Well, it's a process improvement initiative, and we are trying to make it (inaudible) this is a process improvement issue.

MEMBER DECOTA: Okay, thanks.

CHAIR WEISSER: I'm going to ask Mr. Hotchkiss to give us a last comment, question or perspective before we take a break, and when we come back I'm going to ask for representatives of any of the other subcommittees to share briefly the information that they might have that they'd like to share with the group, and then I'd like for us to talk about the process that we're going to go through on the report and get a sense of which committees think they're going to be ready and when. And last we'll talk about the schedule for upcoming meetings.

Mr. Hotchkiss.

MEMBER HOTCHKISS: I have a question that can go out to any of the CAP station representatives. I've heard that the CAP process adds time to a repair procedure, basically administrative time, I would think. I just wondered if anybody has either a rough idea or a fixed idea of the increase in time to that

over a like failure, diagnostic and repair of a consumer vehicle.

MR. ERVINE: Dollar-wise, in lost time on a CAP car to the technician, I would say that we're dealing with probably an average of about half an hour, which would be somewhere right around \$30, \$35. Actually it would be about \$45, I'm sorry.

Office help-wise, I would say for a typical CAP we're looking at at least a half an hour, so you're looking at another \$15-20 in the office.

MEMBER HOTCHKISS: So total about an hour's time.

MR. ERVINE: Yeah.

MEMBER HOTCHKISS: Who picks up that time?

MR. ERVINE: You just have to adjust it in your labor rate.

MEMBER HOTCHKISS: Okay. So it's essentially all your customers end up paying for it.

MR. ERVINE: Correct.

MEMBER HOTCHKISS: Thank you.

CHAIR WEISSER: Okay, we're going to take a ten-minute break now and come back at two minutes to three and move into the agenda as I've laid it out. Thank you.

(Off the record.)

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CHAIR WEISSER: Okay. The meeting will come back into order. Thank you. What I'd like to do now, committee members and public, is to chat a little bit about the priority [interference]. It is unlikely that we're going to be able to do each and every item that we've asked our sixteen subcommittees to accomplish, plus the additional issues that keep popping up due to the good work of both the committee and the public within that timeframe. So what I'd like to do is to have a brief discussion now as to what we can do in order to issue the first increment or the first page of our report in a timely fashion.

It seems to me that there are many recommendations that are in the BAR/CARB report which we talked about on and off before we received the report and after we received the report that we might be able to deal with relatively quickly if we could get some initials drafts out of the subcommittees that have been assigned those reports, but I may be mistaken, so what I'd like to do is just go over items nine through sixteen in the subcommittee assignments just to get a handle from those of you on those subcommittees as to where we stand and how quickly you think you could put together a draft report of those items, and then talk about the other items one through eight to get a sense of what we think the timing might be on those. Does that sound like a good idea for the

next ten or fifteen minutes optimistically? So let's just chat for a bit.

We have on number subcommittee nine a subcommittee composed of Vic Weisser and Dennis DeCota to review the clean screen fifth and sixth model years, which is the first recommendation of the ARB/BAR report. If I remember correctly, this was the one where they said there are some of the fifth and six year cars that seem to be operating pretty well, but it may be appropriate for us to the high emitter profile to be exempt from the fifth and sixth years.

Now, some of you might say why even look at this considering the proposal that's before the Administration. I say that our comments still might make sense in terms of, even if they were to differ from what ultimately comes up in the budget trailer language, it still might make sense to do an analysis of this in order to share with the Legislature and the Administration and the agencies and the public our perspectives associated with the fifth and sixth year. I hesitate to open up a grand debate about what those perspectives might be, but my belief is that with a little work Dennis DeCota could produce a draft which I could review pretty quickly on this and I think we could get something no later than the end of next month into the hands of the committee for discussion at our September meeting.

Dennis, what do you think? Glad that you agree. Do you think you can pull together a couple pages on this? I think a lot of analysis is in the BAR/CARB report.

MEMBER DECOTA: I'm confident that we can.

CHAIR WEISSER: Very good. So I'm going to take that as we will make a commitment to the committee that by September we're going to have a couple pages of a draft outline if not a completed proposed section of the report that will deal with that issue.

Item number ten, the BAR report, more frequent inspections for older model year vehicles. If I remember correctly, the recommendation was annual inspections of 15-year-old vehicles and more. I think this is an issue we also should be able to come to grips with. John and Robert Pearman. John, do you think you would be able to come up with some sort of a review of the discussion that's in the BAR and CARB report?

MEMBER HISSERICH: I think we could come up with a two-page or so. I mean, it better to some degree intersect with the issues with CAP and some of that, which in this slightly different dimension but I think an important one to put in there, there are the emissions failings but obviously there's the costs on the other side, but I think we could at least put some

of that down on paper if not come to total resolution of it. I wouldn't suggest that we'd necessarily do all of that, but we could put something together.

CHAIR WEISSER: I need to ask Rocky to give some thought as to how we can address that aspect of the consumer assistance program because I'm not sure it's picked up in other elements of this report. You have any suggestions on that, Rocky?

MR. CARLISLE: You're talking about funding that can support CAP?

CHAIR WEISSER: Well, if we're going to an annual inspection and I'm going on the assumption that from a socioeconomic point of view, you're going to find a higher number of lower income people affected by an annual inspection of 15-year and older vehicles, and if that's the case, I want to know what the capability is of the CAP program to handle that issue.

Now, we can't have a subcommittee of more than two people. I do not want to change the makeup of that subcommittee.

MEMBER HISSERICH: We talked a bit about it in some of our phone calls so I think we can. I mean, the other side of that dimension as some people bring up occasionally the whole hobbyist car thing, and I think that's, one, a relatively small number, and two, they're usually finely-tuned cars that don't get in the mix.

But I think you're right, at least as I look this over this is the closest to the CAP, so we need to figure out some way to at least touch on that. And I don't know if we can come up with some kind of estimate of cost, if you will, of getting in the CAP mix as a result of more frequent testing.

MR. CARLISLE: We can look at some repair records at BAR and get an idea what vintage vehicle costs to repair.

CHAIR WEISSER: One option that I'll toss to you, John, is that the consumer assistance side of that issue, we could kind of chop that off as an issue that we've identified and establish a new subcommittee composed of Tyrone and Jude.

MEMBER LAMARE: I'm already on three committees.

CHAIR WEISSER: Well, maybe Tyrone and someone to be named later to deal with the aspects of the issue that you just said, what are we talking about in terms of numbers and demand and what other sorts of things.

Jude?

MEMBER LAMARE: I don't see a problem with CAP issue getting raised within the members of the committee and being dealt with in the context of a subcommittee. The committee as a whole is going to review each subcommittee and make input, and I think

the way that John has described what he's going to do sounds good and maybe CAP issues will also come up in the next meeting in a different aspect.

CHAIR WEISSER: My interest here is only getting Tyrone engaged on an issue that, A, he has an interest in, and B, he has expertise in. Maybe what we're better off doing is allowing the committee to do what they're going to do and when it comes here you weighing in. What do you think, Tyrone?

MEMBER BUCKLEY: I think Jude's got a point that maybe it will have some sort of impact – some sort of CAP analysis we should go into. I'm comfortable for the time being having us look at that as a committee.

CHAIR WEISSER: Very good.

MEMBER BUCKLEY: But I don't know exactly how the subcommittee and the whole committee works right now, but I would hope there's some opportunity to in the short term the subcommittee work on the CAP side and (inaudible).

CHAIR WEISSER: Absolutely. First of all, there is no history, this is all brand new. The committee has an unblemished record of never submitting its statutory mandated annual report. We're going to break that history, we're going to put one out this year, I guarantee it.

So John, in the absence of Robert Pearman I'm going to suggest that by September 1st you'll be able to have a two or three-page draft. If you need any help from Rocky, I know he's not doing anything and if there's any help I can provide you.

I think the same thing is true with item number eleven. I think it's very similar sorts of issues.

MEMBER HISSERICH: To some degree the CAP fits that, but I think we're looking at fleet vehicles.

CHAIR WEISSER: That's correct.

MEMBER HISSERICH: And having ridden up here in a cab and had the service lights glowing on it, I was reminded that (inaudible). And I was interested in the gentleman's comment back there about how one might address fleets of police vehicles with maybe not so much the inspection but what's required to exempt them that could be touched on. Those cars sit and idle a great deal and are typically high mileage vehicles. They're typically newer and usually have pretty good maintenance, but there may be some things that could be done to make them better in that regard.

And I'm working on getting numbers in high mileage. Rocky's been working hard to get taxicabs.

MEMBER HISSERICH: Police cars, are we working on that one, too?

MR. CARLISLE: We can add that.

MEMBER HISSERICH: Let's see how many there are. Somebody ought to know how many police cars are in the state.

CHAIR WEISSER: Could we then say that you'll give us whatever you also have available by September 1st?

Bruce, item twelve, immediate inspection of smoking vehicles.

MEMBER HOTCHKISS: It seems that is a subcommittee of me.

CHAIR WEISSER: Um-hmm.

MEMBER HOTCHKISS: Yeah, we did discuss it somewhat and I know that Rocky has some information on that. I don't see why I couldn't put together a short.

CHAIR WEISSER: By September 1st. Thank you.

MR. CARLISLE: That's one of the letters that I've written to CHP and requested information on.

CHAIR WEISSER: Item number thirteen, delete change of ownership inspection for two and newer model years. Once again this is Bob Pearman and John Hisserich.

MEMBER LAMARE: He just said that's four years.

CHAIR WEISSER: Well, we have the same sort of issue that we have on the clean screen fifth and sixth year. How much work have you guys done on this issue?

MEMBER HISSERICH: That one I think the least of all three, we've really done very little on it.

CHAIR WEISSER: I'm going to suggest if the committee doesn't mind that maybe that assigned to Dennis and I to do. It's also related to item number nine.

Rocky, I can tell you that the data that I'd like to see on this absolutely relates to the data track of vehicle deterioration through years one through six, and I'd like some information on how the warranties on smog control equipment work. How many of the cars are still under warranty at fifth and sixth year versus one, two, three, four. I'm really concerned over the potential implications for the consumer of buying third and fourth year particular cars that have not gone through a change of ownership issue. I don't want to see three or four years from now the screams from people that have bought cars under the impression that their emission control systems were functional whining that they got a \$2,000 bill because someone fussed around with it or whatever. If you could get that to me or Dennis in

the next week or so so we can lay out a track on this in more detail. Is that okay?

MEMBER DECOTA: That's okay.

CHAIR WEISSER: Okay. Number fourteen, the BAR report improve station performance through tighter after repair emission standards. This is one that's a tricky one and I think we've heard from the public often on this. You can't -- there are difficulties in the station attempting to sell the customer a repair that's more tight than the actual requirement to pass the test. I think Chris Ervine has been particularly eloquent on that.

MR. CARLISLE: On that issue, if I may?

CHAIR WEISSER: Yeah.

MR. CARLISLE: We do have a meeting on the schedule of enforcement branch of BAR, and with the subcommittee's concurrence I'd like to give Chief Ross an advance copy of the questions because he'll need some possible time to prepare for those questions?

CHAIR WEISSER: Yeah, if we knew what the questions were.

MR. CARLISLE: They're in your book.

CHAIR WEISSER: Okay.

MR. CARLISLE: They're not finalized yet but they are there.

CHAIR WEISSER: But you are now a subcommittee of one.

MEMBER DECOTA: Well, we are on thirteen, right?

CHAIR WEISSER: I'm sorry, fourteen.

MR. CARLISLE: I was talking about fifteen. I thought we were talking about enforcement.

CHAIR WEISSER: Okay, thirteen we've done, we've switched to Dennis and me.

MEMBER DECOTA: We've done a little work on that, Rocky. Where are we at?

MR. CARLISLE: The tighter cut points, we've done a lot of work on tighter cut points.

MEMBER DECOTA: We discussed it and we had something we were going to do.

MR. CARLISLE: Right, but that's one of the issues that ARB is working on this summer to support the SIP document. They call it a white paper.

CHAIR WEISSER: So ARB is doing some additional work on this one?

MR. CARLISLE: Yes.

CHAIR WEISSER: I'm wondering then whether that one we could kind of just hold in abeyance for awhile and not put our immediate efforts on that. I don't mean not work on it, but not ask you to come up with something Dennis by September 1st.

MEMBER WILLIAMS: Well, it's tied in with item nine also.

CHAIR WEISSER: I don't understand this. All the subcommittees now are being reduced to one person, you. Did you arrange for that?

MEMBER DECOTA: No. No, I thought you did. I mean, we do have to look at the issue of nine, but I don't know if that requirements for nine down.

CHAIR WEISSER: I started with nine and then go through the others and see when you thought you could get something done.

MEMBER DECOTA: And due to the fact that the letter that was received from ARB with regards to item nine, it probably would be wise to wait and try to understand that document before jumping to a conclusion.

CHAIR WEISSER: I'm not uncomfortable with us saying, okay, that's not something we're likely to get out in the first iteration of the report. Is that what you're suggesting?

MEMBER DECOTA: It looks that way. I have mixed feelings on the matter because I do believe the idle test would be an inexpensive way to enhance emission reductions quickly. I don't know if what the information has been sent by ARB to us with regards to cut points and its relationship on this issue in timeframe. If it is totally within the scope of just carte blanche accepting that issue in that face value letter, because there's very few things that we can do

quickly to immediately respond to these emissions, and I believe that this items been on the table no less than six years.

CHAIR WEISSER: Okay.

MEMBER DECOTA: And that three and a half tons per day, I don't want to do the math, but we blew a little bit of emission reductions.

CHAIR WEISSER: Well, if you could give me direction as to when you think you might be able to get something done.

MEMBER DECOTA: In all fairness, we need to —

MEMBER LAMARE: We need to put someone else on the committee.

MEMBER DECOTA: Or it's never going to come out like it's supposed to be.

CHAIR WEISSER: Item number fifteen. Bruce?

MEMBER HOTCHKISS: As Rocky said, we have a meeting scheduled with BAR on the 3rd. I'm going to be there and Gideon is —

MR. CARLISLE: Gideon is (inaudible).

MEMBER HOTCHKISS: I have no problem with sending the questions over. I heard Gideon was going to be (inaudible).

MR. CARLISLE: I asked Gideon if he could change the wedding plans so he could concentrate more on the IMRC committee.

CHAIR WEISSER: I'm glad you have your priorities in the right order, both of you.

MEMBER HOTCHKISS: We're actually moving along quite well. I think we could have it (inaudible).

CHAIR WEISSER: At the beginning of September? (Inaudible).

Jude, when will you have item sixteen done?

MEMBER LAMARE: We're meeting on September 28th.

CHAIR WEISSER: Well, we need to get something in hand to the committee before.

MEMBER LAMARE: I would be happy to put something in their hands.

CHAIR WEISSER: On this issue we've gone through this, we've beaten this sucker to death and I think we'll be having no problem in getting out a report.

Turning back -- the 30-year rolling exemption was item sixteen, I'm sorry.

We've just talked about item number nine.

Item number two, review and comment on the BAR budget. I will be able to get something done by September 1st to you.

Bruce and Tyrone, Tyrone's new so I'll turn to Bruce and ask you on the BAR roadside testing budget and the data, remind me, what's this one about?

MEMBER HOTCHKISS: If I remember correctly, that's the money that's been moved over to remote sensing, and we were concerned that the roadside appeared to be a very good way of collecting data and it isn't being done. If I remember, we were looking at whether there was some other way of linking the data or not. And if Tyrone wants to take a look at it as well, which it doesn't seem to me that it's going to be that difficult to make a report.

CHAIR WEISSER: Would I be confident in asking you guys in the next week or so to have a conversation and come up with a work plan of what you're going to be looking at in terms of how that program is working, how it's funded?

MEMBER HOTCHKISS: Yeah, I think so. Rocky, if you could get ahold of Tyrone and then bring him up to speed as to the whole roadside versus remote.

MR. CARLISLE: Part of that issue is a resource issue because they lost a lot of staff and are trying to replace them, as I understand it.

CHAIR WEISSER: Well, I remember hearing from BAR that they had shifted some people out of the roadside testing in order to staff the (inaudible) program. And then I heard that they lost some of those positions so that both programs were understaffed and they were going to ARB to get a loan

of some people to help, and I believe that that has occurred.

MR. CARLISLE: Yes, it has.

CHAIR WEISSER: So that the programs, while understaffed, are equally understaffed. That's a modest aspect, it seems to me, of this element. This element, I think, should be the more crucial issue of the longer term how do you go about collecting adequate and accurate roadside data, which is not an easy question.

Jude?

MEMBER LAMARE: This committee should focus on some attention on what is the appropriate size of a roadside testing program. How does the roadside testing program [interference] that allows the state to evaluate what's going on onroad, and it has become even more important as more vehicles are proposed to be exempted from the regular Smog Check Program. There's a very urgent need to make sure they're surveilled onroad OBD failure rates. I have not seen anything that puts the roadside and remote sensing programs side by side and talks about the different objectives and their different methods and their different costs and what's the proportion there. Maybe that's totally ambitious, but at least the (inaudible).

Once again, the Smog Check Program is a part of our State Implementation Plan already pointed out today, which is a federally mandated and federally authorized air quality measure that's part of (inaudible) our state and we need to document exactly what needs to happen in these programs as far as SIP measures so that we make sure that we get funded on a continuous basis. Thank you.

CHAIR WEISSER: My only question is, considering they have remote sensing demonstration with the pilot underway now, whether there's a lot we're going to be able to say very quickly on this issue.

John?

MEMBER HISSERICH: (Inaudible) roadside testing and I was basically on that subcommittee. I am wondering, since it's essentially voluntary, are the data of sufficient value to really be a check on anything since it's not random sample of the vehicles, it's a self-selected sample of vehicles, and you wonder if it's sufficiently random to give you a reasonable idea of what is happening. I don't say that by indictment, I'm just asking the question.

CHAIR WEISSER: Ergo the potential desirability of melding the voluntary pullover roadside testing with remote sensing data in terms of the potential screw-up there.

What's the committee's sense of how important and what the timing is on this one? To me it's second level, not as important as some of the others, but what are your --

MEMBER DECOTA: I would agree with that.

CHAIR WEISSER: So just kind of leave this, I think. Well, meaning I don't demand something September 1st. Maybe October 1st. That's what I would do if I were in your shoes be aiming for, Bruce.

MEMBER HOTCHKISS: Okay.

CHAIR WEISSER: Number four, Jeff and Jude, the quantified emission reductions and how much is the Smog Check Program really doing to improve air quality. This is one of those baseline questions that the committee is charged with answering. We have data from ARB. We need to review that and that's something that Jeff and Jude are doing.

What's your sense of how well that's coming along?

MEMBER LAMARE: Jeff can go first.

CHAIR WEISSER: Jeff, what's your sense?

MEMBER WILLIAMS: We've had a meeting with various staff that helped prepare the technical report and raised some questions and some follow-up issues, and as you probably are aware there are several comments from outside about the technical report, how still up in the air it is and probably need another

round of (inaudible) September, so I don't think we have a difficult report but not long after that.

CHAIR WEISSER: But you think perhaps sometime in mid-September or late September you might be able to draft something that we could discuss at our October meeting?

MEMBER WILLIAMS: Yes.

CHAIR WEISSER: Jude, any comments?

MEMBER LAMARE: My comment on this is that (inaudible) I've gone through and been thinking about and we do need the Air Resources Board to also comment and the bureau to comment on Jeff's questions. One of the things that he's concerned about is how I&M is managed in 2002. Jeff and I want to look real closely at that. And then Jeff isn't convinced that when comparing the '99 and 2002 fleet emissions that we're not just comparing changes in the fleet, so we want to assure ourselves that we're not looking at some kind of (inaudible).

You know, we've got a lot to work on and we plan to meet with ARB again and go over these things before we write our report. And if anyone has questions or concerns about how the emission reductions of the 2002 program are estimated and wants to have our independent review and comment on that in our report, they should get us those questions now since we're well into our work.

CHAIR WEISSER: You might want to send out an email to the committee, particular attention to those that aren't here today, repeating what you've just suggested that now is the time to get those ideas into this process.

Number five. Jeff and Tyrone, not what you have gotten into.

MEMBER WILLIAMS: I tried to tell him, and I'm beginning to wonder what that one was about.

CHAIR WEISSER: This is the comparison of model tests.

MEMBER WILLIAMS: Test-and-repair and test-only and Gold Shield, what difference it makes, what pass rates and so forth. Rocky has that we get six months of data of every test done in the state, and that has caused my computer staff at UC Davis to question me on the use of the computer, and that is on its way.

In other words, since I'm taking a little while, I won't have it by September 1st but I will be able to perhaps make a presentation in September or October.

CHAIR WEISSER: So a potential presentation in September, surely something by October. All right, very good.

MEMBER WILLIAMS: I persuaded one of my students to work on this full-time sorting records.

CHAIR WEISSER: Congratulations for the volunteer. Dennis.

MEMBER DECOTA: On some recommendations, Jeffrey and Tyrone, due to the fact that we most likely will be faced with the five and six-year exemption and also the ownership issue, I hope that you can extrapolate what that percentage will be. In your report make sure that we understand the breakdown, not of vehicles subject to testing, not the entire vehicle fleet, because that's where industry and the bureau have gone round and round and round, okay. And those numbers are very, very crucial to understand the flow of it.

And then it would be extremely helpful if we could understand in the amount of vehicles failed in test-only the type, make and models of the years as it relates to income and social standing. In other words, are these people paying two and three times to have their Smog Checks done because of the test-only program? I think that type of information would be extremely helpful.

CHAIR WEISSER: [interference]. And I've got to be careful here. It would be an interesting idea if you just took (inaudible) of age of the vehicle [interference].

MEMBER WILLIAMS: Now I appreciate how much work as gone into this with ARB and BAR, just the

enormous amounts of data that (inaudible). And I don't know how I ever got on this subcommittee.

MEMBER DECOTA: They wouldn't let me on it.

CHAIR WEISSER: I would urge you to follow Dennis's request in terms of looking at the numbers in comparison to the fleet, but I guess I'd say you ought to look at it both ways so the committee gets to see the figures so the committee gets to see the figures both ways, what the sense of the total fleet would be directed here versus going there, and then what percentage of the fleet that tends to be subject to.

MEMBER DECOTA: I think that is a good idea.

CHAIR WEISSER: It's just the same number but you'll have two different dividers or whatever they're called.

MEMBER DECOTA: Exactly.

CHAIR WEISSER: Well, your timing, that one's going to be a tough one, not just the analytical exercise but the writing of it in a way that normal human beings can understand will not be easy.

Item number six, determine causes for program avoidance.

Chris, I'm going to go through these and then after we're done we're going to open it up for questions.

Item six, determine causes for program avoidance is, I think one of the more interesting

challenges ahead, because if there were any easy answers to this I'm sure the enforcement staff and others have explored it. I'm interested in seeing what sorts of things you find and Gideon finds are implicated by the program.

I don't think that I'm at a place that I need to know when you're going to come in with something on this, but I'd appreciate it if you could get in contact with Gideon or vice versa beginning a discussion of what methodologies you're going to use to pursue this issue. Ultimately it's a mammothly important issue.

Item number seven, Bruce? Item seven is evaluate the accuracy of the HEP.

MEMBER HOTCHKISS: Paul and I have talked with Rocky somewhat (inaudible).

MR. CARLISLE: That (inaudible) because that involves some other analysis that we'd have to get from other reports, and it's a little unclear what you use for a comparison on that, because if you say you're directing all these vehicles and they're going to fail, what are you going to compare them to? That's a problem.

CHAIR WEISSER: Well, I guess right now we'd compare them to the failure rates that are reported in the test-and-repair industry.

MR. CARLISLE: They're rated by model year, but that (inaudible).

CHAIR WEISSER: I guess I'm unclear. Maybe when we're offline we can check, because I don't understand. I don't think the timing of this one is quite as important as the others, but I will say that by next year it will be very important, because I think by that time this RSV pilot that is being worked on by BAR and CARB will be near if not at completion, and the combination of using RSV and the high emitter profile as principle vehicles for identifying which failing vehicles should be directed toward repair and getting consumer assistance I think is important in terms of the future of the program, so I think we need to get ourselves to the point where we have a high degree of confidence in the high emitter profile, or find out that we don't and try something else.

Yes, Mr. DeCota.

MEMBER DECOTA: This discussion, what about taking high emitter profile candidates that exist today and comparing [interference] failure rate. That's okay if it's a high emitter vehicle. In other words, if someone at the bureau decides that Vic's car fits the profile for a high emitter, but the failure rate for that car at either test-only or test-and-repair is less than ten percent, that might skew the amount of vehicles being sent to different

types of testing. That would be that this industry representative would be very interested in looking at.

MR. CARLISLE: I think you could do that. I think one thing you have to remember about the high emitter profile's original intent was to be used for 15 percent of the fleet, and now that it's up to 36 percent of the fleet, that it dilutes the effectiveness of that identification.

MEMBER DECOTA: I think you make a good point, but it would still be, I think, factual data to see what within (inaudible) failing rate actually is on directed vehicles and say, okay, this Volkswagen engine failure rate is 52 percent, you know. But if this engine came with a failure rate is only 8 percent, why are we directing all of that to test-only? Why is all that being directed to test-only when maybe a percentage of that should go to test-only only to keep that, whatever numbers they have to kind of ease down on the amount of directed vehicles if it isn't a real issue.

MR. CARLISLE: I think this is one that we really need to meet with BAR and talk to the engineering branch, because there's a lot of different facets on this one, so maybe we can get together the subcommittee and engineering.

CHAIR WEISSER: And the last item that I want to raise is the consumer information requirements. Jude.

MEMBER LAMARE: Paul and I, as you know, have been working on this for awhile and on different aspects of it. One aspect is that Paul has looked at the Legislature and the field offices that potentially ought to make more consumer information to be available to the public, and I think he has made some headway there.

Another avenue that we looked at was asking the bureau more about the consumer assistance program, and in that regard how much of the funding is going to the income eligible versus how much of the funding is going to the test-only eligible portion of the population.

And we have also been concerned about the Gold Shield distribution throughout the state. I in particular believe there's a discrepancy in the number of Gold Shield stations in the Los Angeles County area relative to the population in that county, so we still have a little bit more work to do on that.

Our big data gathering exercise is the survey that Rocky's already reported on that survey to you, and today's discussion suggested a couple of really important question that did not make it onto the draft questionnaire, so I would say this

discussion has been extremely productive towards affecting what we're going to find out there. And we are expecting the data to be available September 15th, so I would say that at our September meeting we'll have a preliminary report, and that I think will help us a lot to see what the program looks like from a consumer perspective. That doesn't mean that the report will be done, but it will be something that the public and the panel can comment on.

Now, hopefully, the contractor does not have any delays.

MR. CARLISLE: Well, there is no delay because the contract does state September 30th.

CHAIR WEISSER: Albeit, quality is more important than speed in this issue.

MEMBER LAMARE: 550 of these. I mean, this is not a huge amount of data to put together. (Inaudible) get the data back very quickly.

CHAIR WEISSER: Very good. Well, it seems to me we have a darn good chance of having a report that has about ten aspects of the things that the sixteen or so that we have out to the public, to ourselves for a review, a draft review at the September meeting or immediately thereafter, and we have a good shot at getting a substantial report done in the timeframe, Rocky, that you laid out, so I see no reason for us to change the timeframe at this point

in time. But it is going to take the committee members to be following through.

And Rocky, I guess I'm going to hold you responsible for bird dogging each of these subcommittees to make sure that each one is making progress, to let me know if you see slippage from what we talked about today so that I might think about a way to motivate the subcommittees to get their work done.

MR. CARLISLE: Okay.

CHAIR WEISSER: Including myself. Are there any other questions or comments regarding this portion of our discussion? We're going to take comments on not the substance of any of the issues we've just gone through, but if you have any suggestions or comments regarding time of process I'd really like to hear them. We'll start with Chris Ervine.

MR. ERVINE: Chris Ervine with STARS. I think item number five, the test-and-repair/test-only issue, that is a very critical issue that is affecting the test-and-repair industry, especially the people here in the Bay Area. They are starting to realize just exactly what they were sold and it really hurts. If you noticed earlier, we had a lot of people from industry here. They have left since. But I think it's something that needs a whole meeting devoted to it. And no pressure Jeff or Tyrone, but I think it

needs to be prioritized. There's no pressure on your, understand that.

CHAIR WEISSER: Thank you.

MR. ERVINE: But I do appreciate
(inaudible).

CHAIR WEISSER: Thank you. Len and then
Larry.

MR. TRIMLETT: Len Trimlett. First of all, Mr. Weisser, as regards the report, do you remember the saying, 'The plane, the plane!'

Okay. Smoking vehicles. I believe, Bruce, you were on that smoking vehicles.

MEMBER HOTCHKISS: Um-hmm.

MR. TRIMLETT: I suggest you strongly take a look at the Nevada DMV website and how they handle their smoking vehicles. If a car gets called in for a smoking vehicle test, it has to go in immediately or it gets taken off the road. It's a very good example of how to do it. Could be done very effectively in California if a person reports a smoking vehicle. I think that's the best way you get at those cars.

Now, as for test-only, I still would like to know how much triple dipping is being done by the state in the consumer's pocketbook. I get stuck with going to a test-only, so I have to fix it. I go to a test-and-repair place. They tell me, congratulations, you just passed your smog test, but we don't trust

you, you're going to have to go back to test-only to get it certified.

The only difference between a test-and-repair and a Gold Shield station is the software. I see this as another scam on the part of the state. I personally have always asked the question, how many tons of pollution has test-only removed from the air? The answer is zero [interference] and I don't think it's designed to take all the old cars off the road. If you survey those cars being sent to test-only as a result of the high emitter profile, you will find that they're largely older vehicles. Discriminatory. Sooner or later it's going to end up cars going to test-only, somebody's going to sue.

I see no productive use for test-only. I think we need to start looking at how productive test-only has been. And please don't tell me that test-only is effective because it makes test-and-repair do a better job. Huh-uh, don't cut it. Thank you.

CHAIR WEISSER: Thank you, Len. Larry.

MR. ARMSTRONG: Thank you, Mr. Chairman. My name is Larry Armstrong. I'm going to remind the committee that I suggested a long time ago that don't think it's ever happened that a fellow named Tom Wentzel be contacted. He was the lead person on the

committee's contractor on the last committee. I told you that he said several times that when you compared the same year model car to the same year model car that the failure rate was the same. That would seem to be pertinent data, I would think, when someone is trying to analyze test-only and test-and-repair.

I shared with you folks a letter that I sent and got back from the Bureau of Automotive Repair. Your executive officer can confirm that the Bureau of Automotive Repair has at hand the number of vehicles by zip code that are being sent to test-only. This letter that I received quite frankly just infuriated me that my government would be so insolent to just disregard what I thought was a reasonable request and just come back and shine me on instead of answering some simple questions. I hope that you folks will take the opportunity to get some valid information so that you can some valid determinations. When we get to the public comment I want to make a comment that will address those concerns. Thank you.

CHAIR WEISSER: Thank you. Yes.

MEMBER DECOTA: Just a point of information. (inaudible) had asked me to contact Mr. Wentzel, which I have no problem doing. The written report that Larry speaks about is the old I&M draft report and I think it would be just as convenient --

CHAIR WEISSER: Is this the report that never was sent out?

MEMBER DECOTA: Exactly. And I think that Rocky can duplicate that for the entire committee for their review. Would that be in agreement?

MR. ARMSTRONG: I can't tell you. You may know more about it than I do.

MEMBER DECOTA: It is there, Larry, it is there.

CHAIR WEISSER: I think I remember reading the report when I went through the old report. Which, Tyrone, by the way, I'm sure the staff provided the draft report to Tyrone. No. Let's do that. Tyrone needs to see the work that the former committee did. It has a lot of interesting findings and an awful lot of information. I think we sent that out to everybody. I wanted to make sure the new members get it. We don't necessarily agree with anything or everything that's in the report, but it's important background information.

Yeah, if you could identify in that report the sections that he's talking about. We definitely want a group that's looking at test-only versus test-and-repair and whatnot, to look at that information.

MEMBER DECOTA: It also encompassed [interference].

MEMBER LAMARE: One thing that the subcommittee that's appointed is going to do is look at that, and I think it's important that we realize that we're working on the 2002 evaluation and not an evaluation of how the program was working in 1999 or 2000 or some prior year. And so, by using current data and examining those issues with fresh data of how the program is working today, I think we get the viewpoint on it that we need. Obviously, everyone on this committee needs to know what happened in the last go-round, what kinds of studies and issues were raised, but I do object that the prior studies are not relevant in their substance to what we are doing in this report. We've got current data (inaudible) current data and they will look at those issues, if I understand what the subcommittee is trying to do.

CHAIR WEISSER: Thank you. I agree with much of what you said. My admonition to everyone to read that old report is less for the data than to ensure that people have the benefit of the thinking of our predecessors. We don't necessarily have to reinvent the wheel. A lot of these issues have been debated and perspectives shown up before and I think it can just be helpful. But you're right; we are not looking at the dataset for 1998, we're looking at much more recent data, and I take your words to full account.

Mr. Peters.

MR. PETERS: Mr. Chairman, thank you for allowing us to speak. I'm Charlie Peters, Clean Air Performance Professionals, I represent motorists. You know, I find all this -- first of all, let me say that I just find it very confusing how the posted information on the website with the meeting minutes and the transcription that takes place here, how popular the word 'inaudible' is. It's just amazing how often the word 'inaudible' comes up here, and that's just so interesting. And if in fact the technology that's utilized here is that poor, I'd highly recommend that the committee consider the possibility of improving the technology so that we get a little less of the word 'inaudible' and a few more of the words that people say, just as an interesting point.

MEMBER DECOTA: (Inaudible) the tapes?

MR. PETERS: There has been interesting discussions of these kinds of issues in the past, Mr. Chairman, but with an awful lot of data and information. And I think you were significantly involved in that. Did I say that? No, sir, I just said that in reading the documents it appears as though there's a significant opportunity to improve the performance.

MEMBER DECOTA: All right.

CHAIR WEISSER: Please continue.

MR. PETERS: I've provided for the committee today a couple little posts on IEPM and I got the author's permission to provide them to the committee. The gentleman is not in the program. But the former secretary of resources, the former secretary of environment, the former chairman of the Air Resources Board, the former number two person at EPA, the person that worked the deal for Smog Check II in California stated that the Arizona program was the goal program and we were required to create equivalency with that was the mandate from EPA.

So here is a professional mechanic who is not in the Smog Check Program and the questions that he asked concerning his mother's car if it was in Arizona, and what he ended up finding out there.

Closed hood program. In other words, you could have a Double-A fuel dragster motor under the hood or [interference] his opinion and I'd like you to read it. Thank you.

CHAIR WEISSER: Thank you, and I'm sure we will read the material, Mr. Peters.

— oOo —

I want to move now to the next item of business, which is our schedule for the rest of the year. As you know, we have a meeting scheduled for August but it's come to my attention that due to a

variety of circumstances including resignations and existing vacancies, vacation schedules and other personal items, that we are going to be missing sufficient members with which to have a quorum. Now, that does not preclude our ability to have a meeting, but it certainly undermines the efficacy of having a meeting, which for us to be able to chat among ourselves and the public to get input from them on the issues to bear. But concerning the large number of absences anticipated for August, I'm going to recommend and I'd like your feedback on whether or not we should cancel the August meeting and instead anticipate a very, very intense September meeting, allowing the extra time that we would have to go into the development of the best quality first draft that we can really produce. Is there any comment or reaction to the proposal which I'm making that because of the likely absence of a quorum we cancel the August meeting? Mr. DeCota.

MEMBER DECOTA: I would support your recommendation. I would also recommend that we hold the meeting early in September, as early as we can calendar the meeting, and then if need be, we could follow with another meeting later in September (inaudible).

CHAIR WEISSER: Perhaps we could ask the reaction of the staff to what that proposal might be

in terms of logistics. When is our existing timeframe for the September meeting, when is the meeting set and where would it be? Tuesday the 28th?

MR. CARLISLE: Yes.

CHAIR WEISSER: And is that going to be our next webcast meeting? No, that was going to be October. Well, darn it, I think Dennis may have a good idea. Maybe what we want is a meeting early-ish in September to go over the papers that we have that have been developed by September 1st, and then a second meeting to see what progress we've made on those papers in between and also get the work that will be done by then on some of the other papers. What's your reaction to the notion of a meeting on or around the second week in September and the one on the 28th?

Jude, you look like you're going to kill me. Lynn already wants to kill me, I can tell. What's your status, is two meetings too much?

MEMBER LAMARE: We can do it.

CHAIR WEISSER: Okay. Then I'd like to ask the staff to poll the availability of the members for — when is Labor Day this year?

MS. FORSYTH: The 6th.

CHAIR WEISSER: The 6th?

MEMBER DECOTA: Yeah.

MS. FORSYTH: How about the week of the 13th, then that would give us two weeks before the 28th.

CHAIR WEISSER: I'd prefer that you do the latter part of that Labor Day week. See what's available and what people's schedules are like Wednesday, Thursday, Friday and the following the week.

MEMBER DECOTA: Mr. Carlisle is going to be traveling out of the country and it would certainly be advantageous if he were available.

CHAIR WEISSER: When do you get back?

MR. CARLISLE: I'll be back by then.

CHAIR WEISSER: Lynn, could you just poll the members, which will not be easy. I mean, we're just going to have to see if we can pull together critical mass on one of those other meetings. If we can't, then we won't have a meeting until the 28th.

MEMBER LAMARE: Well, I can think of a number of reasons for us to have a meeting. If we have appointments, [interference] it would probably be time well spent. But if we're not getting the participation we need from the committee, I would rather work on my subcommittee to do quality work on -

CHAIR WEISSER: That's what we'll need to do. We'll have to base the meeting on the availability of the members, and I might add the

availability of rooms to meet. So we will try to get that information within the next few days, I would hope to send something out tomorrow and give them 48 hours to respond. If we don't hear from you, we're going to assume you're available. We'll go from there.

Okay. But the decision of the committee is that we definitely are cancelling the August meeting, so please the notify the facility hosts.

— oOo —

I would suggest now that we move to the public comment portion of the agenda, but I just received a message from my daughter who's visiting from Pittsburgh that I must return, so I'm going to beg the committee's indulgence and ask Mr. Williams, for a change, to assume the temporary chair. I'll be back as soon as I make this phone call. Thanks. Sorry.

MEMBER WILLIAMS: So public comment.

MR. TROOP: I'm John Troop, I own a Gold Shield shop in Petaluma. One of the things that I think a lot of us have come here today also to talk about was the amount of test-only cars that are sent to test-only. We have two problems with it. There's a lot of cars that are test-only sent, I don't know what the percentage is currently. It's supposed to have been 36, I believe, but I believe it's higher

than that. As an average I get three that come into my shop each day with test-only paperwork that I have to turn down after they have set up an appointment on the phone. I've asked them if they're test-only, they don't seem to know. We can't seem to get it out to the public so that they're aware that they are a test-only vehicle.

Then it comes into the shop and perhaps they have no paperwork and we run the test. We get into the test. We can't perform the test, but we've already spent time on the vehicle, and then the vehicle turns away and has to go to a test-only.

I've also committed time on my appointment book for that vehicle. There has to be an easier way that we know that it's a test-only vehicle. And it has to come up earlier when we go into our test. I don't know how we can do that, but there's got to be something that can be done that would help.

MEMBER DECOTA: Mr. Chairman? What percentage of decrease in testing since Petaluma is in the new enhanced area, the Bay Area, versus last year, would you say what is your percentage, or is there a decline in testing?

MR. TROOP: A considerable decline in testing. I'd say I probably lose five smogs a day.

MEMBER DECOTA: And what do you charge per test?

MR. TROOP: \$89.75.

MEMBER DECOTA: Thank you.

MEMBER WILLIAMS: I'll just comment, if I may. Before I was ever involved in this we had a few older cars in the household. When we got that first thing that sent us to test-only, we didn't know what the heck they were talking about and it wasn't at all clear. We drove around looking for the sign trying to figure out what we needed. We got to the right place, but it was not readily apparent what we were supposed to do.

MR. ABREEZE: Thank you. My name is Mozed Abreeze. I have a test-and-repair station in Peninsula. In answer to your question, I used to do twelve to fifteen smogs a day. I'm down to two to three a day and sometimes none. And I turn away between seven and eight, sometimes nine or ten on the weekends to the test-only stations. Besides myself, there's three other people who make a living off of my place.

MEMBER DECOTA: Let me ask you a question. On the vintage of vehicles, and let's take U.S. manufactured vehicles, are you seeing as late as '96, '97 models being referred to test-only?

MR. ABREEZE: I have seen 2000 model year [interference] high emitter profile.

MEMBER DECOTA: And that's a computerized vehicle, correct?

MR. ABREEZE: Absolutely, OBD II.

MEMBER DECOTA: Thank you.

MR. COOLEY: My name is Bob Cooley, and I'm the owner of a test-and-repair station in Petaluma, and I would just like to tell the committee that since we have another new test-only station come in I've probably lost about 40 percent of my smog business.

In addition to that, I'm having a very difficult time explaining to those people who come in for a test-only as to the reasoning for it. Also, I have set up, because I've got some very, very irritated customers that have been loyal customers since I've owned the business, and they don't understand why they have to go to a test-only station when I have the equipment there.

So what I had done, I had set up a little petition and the people that go into a test-only station and come back to me for repairs to the last one have signed that petition which we are going to forward on to Governor Swarzenegger.

Also, I might add that I think that the test-only really opens it up for somebody who's ethically challenged to, because they can just fail the car for very little reason in hopes that they're going to get that car back and collect another full

fee. Additionally, they're more expensive than any of the test-and-repair stations in our town.

Frankly, I was asked, as the rest of the test-and-repair people were, to join the partnership with the State of California and the Bureau of Automotive Repair, and I feel like somebody's got their hand in my pocket and I resent it. Thank you.

MR. ERVINE: Chris Ervine, Coalition of State Test-and-Repair Stations. Ditto on the last gentleman's comments. I've seen a 90 percent drop in the number of vehicles that I test, initial testing. We're a CAP station. I just want to kind of relate a story that I experienced here within the last couple of weeks.

I contacted Bureau of Automotive Repair and asked them for a physical description of what a test-only station is supposed to look like. They gave me the description, and then I asked them to cite the rules and regulations that describe that. There are none. They cannot give me any written description of what a test-only station is physically supposed to look like. They kept referring me back to Health and Safety 44010.5, which just says the test-only can't have any financial interest in a test-and-repair industry station.

This is common of BAR. Over the years they have come up with different items that restrict the

ability of industry to make a living and never have had any written documentation as to what the rules were. The only thing that I can find that restricts test-only is that they can't have any financial interest in a test-and-repair industry. BAR has restricted them from the get-go of not having any financial interest in any kind of automotive-related business. Then they allowed them to have a – be able to do lube, oil and filters. Then they allowed them to sell gascaps and thermostatic air cleaner tubes, and now they allow them to put vacuum hoses on vehicles at no charge, and they are now allowing them to be in the same facility and have interest in a general automotive repair shop. They can't do any after repair tests, but they can have the same operation that I have currently with the only exception that they can't repair a car after it fails smog.

These were the question that I asked: what was I going to have to give up if I wanted to become a test-only? And the only thing I had to give up as a test-and-repair shop was that I could not repair vehicles. It was as restricted us from doing any of these things.

CHAIR WEISSER: Chris, if I might. I'm not sure I understand the implications of your concerns. By being to do non-smog-related work after a failure

but being able to do all the other work, that it tends to siphon business away from you?

MR. ERVINE: My concern is that we have an organization here that is huge and is regulating a very large industry and has no written rules and regulations concerning the physical appearance of a test-only station, and also relating to other items as well.

CHAIR WEISSER: Are there physical requirements for test-and-repair stations?

MR. ERVINE: BAR, according to what I understand from BAR, it is that a test-only station must be separated from any other automotive facility by some sort of a wall and the service writer's area must be separated from the regular office of the general repair or whatever type of business there is. There must be a separate address. And those are the requirements that they're making.

CHAIR WEISSER: Dennis, did you have something?

MEMBER DECOTA: Just a point of clarification. Chris is a member of the California Service Station Association and sits on my board of directors, and I work with Chris and I know Chris very well. The issue that Chris is referring to is that BAR 84 it was very clear cut in regards to test-and-repair could not do repair in a shop that did

auto work. You could not do test-only in a shop that did automotive repair.

I remember in the eighties I had a test-only station. Then it evolved that you could not have test-and-repair shops within a 50-mile radius of an operating test-only. And then basically our smog pros (inaudible).

And now as we've moved into over 1,000 shops participating in test-only, an area of different type repairs including automotive repairs are allowed within the same community. There is a line that is a very, very taught line that states the vehicle that fails under Smog Check in a test-only station cannot have it repaired by that same ARD in general automotive repair. But it keeps changing, and what Chris is relating to is, he doesn't know what the rules are. He can't follow the rules. If he can't follow the rules and they're interpreted differently by each field representative as to what those rules are, he's in violation. When he's in violation he is subject to losing his license, which is his livelihood, and that's what Chris is trying to communicate.

CHAIR WEISSER: Thank you, Dennis. Thank you, Chris.

MR. ERVINE: Thank you.

CHAIR WEISSER: I don't know who –
Mr. Hotchkiss.

MEMBER HOTCHKISS: There used to be a description of what a test-and-repair facility had to have physically, and I don't remember if it was a regulation or a policy, but I know that there used to be requirements that the machine had to be (inaudible). Three walls, a roof.

MEMBER DECOTA: What I think is it's a moving determination. But industry doesn't know regulation from policy.

MEMBER HOTCHKISS: I know.

MEMBER DECOTA: Okay.

MEMBER HOTCHKISS: I'm just stating some background, Dennis.

MEMBER DECOTA: I'm not arguing with you.

MEMBER HOTCHKISS: Okay.

CHAIR WEISSER: Jude?

MEMBER LAMARE: One of our speakers noted that a later model vehicle had been directed to test-only, and I just wanted to make an observation for the record that I believe two percent of the total vehicle fleet is randomly chosen to be referred to test-only as part of the program.

Another is identifying the high emitter profile, that's a different group. So you should

expect to see some brand new vehicles that are not high emitters directed to test-only.

CHAIR WEISSER: Thank you. That is, I think, accurate. Not having been there, I want to apologize for missing a portion of the public testimony. I have a daughter visiting from Pittsburgh, P.A. with two grandchildren. She got a call and let me a little instant message that she was having some kind of crisis and I needed to make a call. I'm very sorry I missed a portion.

So I don't know who's had a chance to speak yet in this go-round, so I first would like to ask the people who have not had a chance to speak in this go-round. We'll start from the far right, Frank.

MR. BOHANAN: Anyway, there's two things I wanted to talk about. Just to elaborate a little bit more on the police car thing. I don't know if you're aware that now OBD catalysts are certified through a very, very stringent process. An aftermarket cat really is no longer an aftermarket cat when it comes to OBD II. I'm working with several companies that are doing things like metal cats and they're far superior to the kind of cats that you get on most vehicles. Now granted, you buy a Mercedes or some very expensive car that they can afford to put the metal cats on, you'll get this type of technology, but most vehicles don't have it.

Just yesterday I was looking at one for a Lancer (inaudible). The stock cat is yea long with two ceramic bricks. The replacement cat is the actual brick is shorter but it's metal and there's higher loading, so you're dealing with something that's going to have better performance.

Bottom line, you take something like that and you put it on a high mileage car, police car or taxicab, they love it because they pick up probably five, ten horsepower. You also get some better gas mileage because there's less restriction, and the thing, because it's a better formulation it has better durability so the high temperature sensing, which again on a police car is a very significant problem because they do high speed chases, you know, you don't have the problem with the catalyst being permanently shocked and toasted after a couple of high runs. So it's a win/win kind of thing and it's not really that much more expensive.

The last issue, which you've heard me talk about many times before, it's nice to hear that you're looking into things like the data as far as checking roadside versus computer models. As you know, I'm no fan of the computer modeling that's used in terms of EMFAC. I mean, I'm an engineer, I know the value of simulations and modeling. I used to run a (inaudible) shop so I have no doubt that there's good value there

when you put the proper inputs, and therein lies my problem.

I believe, as you've heard me say many times, that the inputs that are being provided for particularly the older vehicles just don't reflect reality. And to the extent that you're trying to assess why there's a disconnect between the roadside measurements and the computer model projections, I say you really do need to look at the inputs. Garbage in, garbage out. In this case, the mileage projections, the skewing effect of a few very dirty vehicles in a small population, those kinds of things really are significant contributors to why the projections are rarely even close. I mean, what, aren't they about 50 percent off or something like that? There's a reason, and part of the reason is that the inputs are just not reflective of reality, so I would say you need to really address that in a very discreet way and we've provided a lot of suggestions on where to start.

CHAIR WEISSER: Thank you, Frank. Anybody else not have a chance?

MR. RAYBURN: I love your smile, Victor. Judith, I'll give you these two here. I can bring you ten a day. If you believe what you said, you need to get on a different committee. You need to come out in the field and see that a hundred percent of our cars are being taken to test-only. The only cars that I am

getting into my shop now are cars from out of state that do not go to DMV prior to going to have a Smog Check, and then we have to double punch those in.

If they go to DMV, which is right around the corner from my shop, they come back and it says test-only on them, even when they're coming into the state.

There is no high emitter profile, it is a fallacy. It is a joke.

The cars are taken, and the director has there [interference] parts only. Now, significant by Websters means, I think, most, not 34 percent.

I was talking to Howard Posner of the Assembly Transportation Committee, and when they drafted AB 2637 it was supposed to be 15 percent. He says he has no idea where the 34, 36 or more percent came from. He is looking into it and he has assured me that he will be contacting the director as soon as possible.

I believe the director and BAR directs cars to test-and-repair and also to test-only. Right now if I've got five test-ONLYs in my zip code and they're directing a certain number of cars to test-only, let's say it's 300, they're going to direct all the cars from that zip code to test-only. Am I incorrect?

MR. CARLISLE: Yes.

MR. RAYBURN: Well, then why am I not getting any cars? That's the answer that I wanted, because he doesn't know. I know that I'm not getting them and I'm losing about \$3,000 a month when the Bureau of Automotive Repair, yourself, asked me to partner up in this. And my smogs have dropped to two, three a week. And I'm \$49.95 and the test-onlys are \$79.95.

Now, I know that people like to go to test-only and they like to spend \$30 more, because I think that this is what I'm trying to be told here. I was told in a couple meetings that people like to go to test-onlys, they don't like to go to test-and-repair. I think that was your words. I remember them well.

CHAIR WEISSER: Thank you.

MR. RAYBURN: So I'd like to see the committee do something about it.

CHAIR WEISSER: We're going to have that subcommittee look at that issue as best we can. Thank you.

Bruce, you had a comment?

MEMBER HOTCHKISS: Yes. He just provided two copies of vehicle registration rules, and I was trying to think because I got directed to a test-only and I looked at my renewals and didn't see it, and then (inaudible).

The notification to go to test-only is above the fold, and that's the problem. I open my envelope and I look at and said I needed (inaudible) and Smog Check, so ran off to a smog station and they opened it up and said, 'What are you doing here, dummy? You need to go to a test-only.' And that gentleman said how do you fix the problem of people showing up? Part of it is to put it where all the other information is, it might work.

CHAIR WEISSER: Well, thanks for providing us with a copy of this. I'm one of those (inaudible), but I have not ever been directed to a test-only. Once again I repeat that I'm not asking to be directed.

We're going to do the final three questions. We're at 4:30 and I know some of the committee members have planes to catch and whatnot, so we'll take these last three questions. Sir.

MR. NORIGA: My name is Larry Noriga. I own a test-and-repair store that's neither here nor there at this point, I don't think. A lot of people are griping about test-only. I've got a couple of other things I'd just quickly like to see if maybe the committee can look at or think about. I don't know what you can or can't do.

I'm here at the request of Automotive Service Council of California. I've had a number of

people get ahold of me and say, gee, you seem to like going to these meetings, so will you? You know, you open your mouth and something happens.

But anyway, my question is, and it's come up a couple of times, do we really care about air quality? In 1968 all cars came with exhaust emission controls. '66 and newer in California. You'll never identify those. So from my standpoint, anything '68 and newer should be in the program, and everything should be biennial.

Change of ownership areas, you've got cars out there that haven't been looked at for twenty years. Down in the Central Valley [interference] change of ownership is very important. It's got to be tested. If I went out and bought a new car today, two years from now you bought it from me, it would have over 100,000 miles on it. And that's just back and forth to work and everything I do on the weekends.

We aren't looking at this from the standpoint of clean air. We're looking at it, from my standpoint, politically. We're trying to save the poor person, we're trying to save the elderly, we're trying to save the guy that built up his '70 Camero, whatever it is. But a lot of the vehicles that need to be in the program are not, they're exempt for one reason or another, and that's just not right.

As far as cats, hey, there's a lot of cars being tested out there that come out from a smog standpoint fine. They're the most unsafe vehicles on the road, and that's not even looking at the driver.

Now, what about going out and buying up a bunch of cheap good vehicles? Go out and buy every '88 through '91 Nissan Centra and give them away. Give them a safe car. I don't think that that would be pretty much too different than what we're doing now, except we're putting junk back on the road.

If you look at your renewal form, you've got a whole list of things on the bottom that you pay for when you register your car. You pay for the CHP, you pay for roadside phones in certain counties. Why can't we have a smog mitigation fee and put it towards buying a bunch of those little cars?

CHAIR WEISSER: Thank you very much.

MEMBER HOTCHKISS: Can I ask one question? You're a high mileage driver. When you talk about high mileage you're talking about fleet cabs, et cetera. I don't know how to put 50,000 miles a year on your car, that's tricky. I mean, if you tested everybody and we're talking about annual testing of high mileage vehicles and --

MR. NORIGA: I don't think you'd have to do annual testing if you would look at every vehicle every other year. You'd be picking up those problems

before they're real problems. You just have to be fair about it, which includes everybody, and we aren't doing that.

MEMBER HOTCHKISS: Thanks.

CHAIR WEISSER: Well, I'm not sure that two years between tests is a great idea based upon the data that we'll see in the old report, which shows substantial deterioration following smog checks in cars. I mean, frankly, we've talked about it before and I like the notion of annual tests for higher mileage vehicles.

You know everybody who's listened to me that I'm not a real fan of the exemption for older cars at all. The political reality is that they're very difficult to bring back cars that are out of the program. The fight now is to keep cars that are in the program in the program.

Okay, we're going to have Charlie and then Mr. Armstrong is back on. Charlie.

MR. PETERS: Mr. Chairman and committee, I'm sure you're tired of listening to me a long time ago. My name is Charlie Peters, Clean Air Performance Professionals, I'm here representing a coalition of motorists.

It's just interesting today how we have discussed just a whole litany of issues. Many of

those issues were discussed in a whole long list of things and the public didn't have any input into that.

Two months ago we had a issue over data from the Air Resources Board that has to do with looking at cars that are broken. That was CAP program and we have no idea if those cars have legal tires, have insurance, have doors, have windows, are useable on the road, are legal in any way, shape or form, but we're certainly putting out all this money and maybe giving 40 percent oversight for the Bureau of Automotive Repair to make sure that it's all done right, but nobody actually seems to have any interest at all in finding out what's going on here.

I see no goal. We have no purpose. (Inaudible) is we have to show equivalency to a centralized program as is in Phoenix. What are they doing? Are we equivalent? Are we superior? Test-only better or is it worse?

We have a simple process in my opinion to evaluate [interference]. He says he has no idea what I want. I picked a lot of inaudibles up, but in that there are no inaudibles. That's the number one new rule of a plan that I'm modeling. Says he has the data and the information to provide the information as to whether or not what's broken is getting fixed. There's nothing here determining whether or not the money that we're spending that belongs to the

taxpayers is accomplishing anything other than -- well, maybe somebody's benefitting somewhere.

It takes a huge amount of additional work to accomplish. Again filling out of paperwork. Lots of Bureau of Automotive Repair oversight, but everybody wants this, so is this really the right thing to do? Do we need to audit and make sure that what's broken is getting fixed and is there a huge opportunity there? I believe there is.

We say U-Haul. We've got 50,000 U-Hauls, according to Rocky -- I've still never seen any data -- that are running around the State of California that don't even have California plates and never get a Smog Check no matter how old they are. And out of 500,000 of them, somehow or another, I have a question about that data and I'd like to see some data. I don't think it's correct. I have not seen any data from the Air Resources Board and I've been asking for it for a long time.

I think we have some opportunities here and I petition you, Mr. Chairman, and I petition the committee to do something here that's going to assist the public, that's going to reduce fraud, that's going to make the Bureau of Automotive Repair a hero, it's going to make the elected officials in the State of California heroes, and it's going to make this

committee a hero, and I petition you to take a look, Mr. Weisser.

CHAIR WEISSER: Thank you very much, Mr. Peters.

Mr. Armstrong.

MR. ARMSTRONG: That's like trying to follow President Clinton last night, but that one I would have declined.

The chairman told a little story here today so I'm going to tell you folks a quick story.

Several years back there was an executive director of a former Smog Check advisory committee whose name was Craig Brack (phonetic). One day he was walking down off the podium across from the capitol, the meeting was not in session, it was in between, and he said to the members that were there that they might want to think about checking into liability because there was a possibility that the way the committee was constituted that they might have personal liability in the thing and not have the immunities that most government employees have.

I state that because I've asked that you folks very carefully get information and very carefully do your jobs. I will tell you that sometimes I fantasize in the night with people's houses going away from bad decisions, which would

probably maybe be okay and fair because my house went away because of bad decisions by my government.

I would ask you to check that. I don't know whether that was a true statement or not, I've never seen it written anywhere else, but he said it and I'm repeating it to you folks.

One of the things that we have not discussed at all I think is paramount to you folks doing your job or not doing your job, is to try to make a determination of whether you're trying to keep clean cars clean or find dirty cars. I have asked you folks over and over again to ask that question, and nobody seems to be willing to answer it. It's the basis of how you set up a program, and yet we're talking about the different parts of the program and we don't even know what it is that we're trying to do.

The last thing I'd like to ask about is I heard mentioned a couple times that this committee apparently had no money to spend on any research, and yet I've heard a couple of different times here somebody talking about RFPs for some kind of public relations information and you have no money, and I would like to know for my citizen own self (inaudible).

CHAIR WEISSER: Thank you, Mr. Armstrong. I have frankly not a clear idea of what you're talking about in terms of the comments associated with the

committee's liability, and perhaps you could chat with Rocky and be more explicit or explain.

MR. ARMSTRONG: Well, what he said was that there was a possibility that committee members could have personal liability for actions taken on the committee because of the way the committee was constituted. Now, I have no idea why he said that, what backed it up or whatever.

CHAIR WEISSER: Fine, okay.

MR. ARMSTRONG: But if you folks have got personal liability here, I would ask that for your own selves I would be pretty careful.

CHAIR WEISSER: Appreciate the advice. You have another question about whether we're interested in keeping clean cars clean or finding dirty cars and getting them clean, and I can't speak for the committee but I can speak with full confidence for myself. I don't see what's wrong with doing both.

In terms of the monies that we've been able to -- the resources, I'll characterize them, that we've been able to obtain, I will tip my hat to Rocky and Jude and others for jawboning those resources out of a tight fisted Air Resources Board, and I'm not sure how much these consultant contracts are going to cost, but I can tell you you're not going to be able to buy a new car with that. It's a very, very small amount of money, a very modest amount.

MR. ARMSTRONG: The issue of keeping clean cars clean, if you would answer that question then you would become violent when you start taking cars out of the program that ought to get checked just to make sure that they stay the way they were, and that's why I asked you to answer that question, because until you get to that point, you can't make management decisions.

And there is a difference. The way it was done in the past might look the same, but it's different. You might have to go find dirty cars and clean them up as a basis of keeping clean cars clean, but unless you go about keeping them clean in the first place, the whole philosophy of what we're doing is you're screwed, you're never going to get there.

CHAIR WEISSER: Thank you, Larry.

MR. ARMSTRONG: Thank you.

CHAIR WEISSER: I want to thank the members of the public for joining us for what's been a long but I think a fairly productive day. Particularly the people who don't usually come to these meetings, I want to tip my hat to you and encourage you to come again and keep offering us your advice. For those of you who know folks that were here who had to leave early, I wish you'd express my appreciation on behalf of the committee for their presence.

I want to especially commend Lynn and Rocky for the work they did in preparation for this meeting. I know you were here early in the morning, and what we've done is promise you once a few more nights of late into the night because the workload is not getting easier.

Rocky, take your computer wherever you're going because we're going to be doing emails.

I want to again extend my appreciation for Tyrone and your willingness to join us in this quest for clean air obtained cost-effectively with help from the private sector.

And with that, I'll entertain a motion for adjournment.

MEMBER DECOTA: So moved.

CHAIR WEISSER: Moved by DeCota.

Mr. Hotchkiss seconds. Any discussion? Hearing none. All those in favor signify by saying aye.

IN UNISON: Aye.

CHAIR WEISSER: All opposed? (Inaudible).

(Meeting Adjourned)

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TRANSCRIBER'S CERTIFICATE

This is to certify that I, TERRI HARPER, transcribed the tape-recorded meeting of the California Inspection & Maintenance Review Committee, dated July 27, 2004; that the pages numbered 1 through 209 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Dated August 5, 2004.

TERRI HARPER, Lead Transcriber
Northern California Court Reporters